



ENCYCLOPEDIA OF UNITED STATES INDIAN POLICY AND LAW

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Paul Finkelman Tim Alan Garrison
Editors



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UNITED STATES INDIAN POLICY
AND LAW

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Edited by

Paul Finkelman

Tim Alan Garrison



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*To C. Talmadge and Jeannine Garrison
and
To Ella Finkelman and to the Memory of Simon Finkelman*

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Preface

In 1987 ethnohistorian James Axtell published the article “Colonial America without the Indians: Counterfactual Reflections,” in which he imagined a North America bereft of humans at the time of European exploration and settlement. The purpose of his piece was to demonstrate how vital the Native peoples of the continent had been to the history and development of the United States. Axtell’s imaginative contention could also be extended to an exploration of the relationship between the story of U.S. Indian policy and the general history of the United States. That history is not only important in its own right; it is also interwoven with the political, economic, legal, cultural, and social histories of the United States—which would have developed in other ways. The United States would be a very different nation today if its government had not had the responsibility of dealing with the tribal nations.

Some might see the history of the relations between the United States and American Indians as a long tragedy in which the former subjugated, dispossessed, and annihilated the culture of the latter. Concomitant with this U.S. assault on Native land holdings, political rights, and culture, however, is a story of triumphant persistence. Despite more than two centuries of attacks on their political, territorial, and cultural integrity, the Native peoples of the United States have survived, endured, and, in some cases, returned to prosperity. Today, many Native peoples are experiencing a societal renaissance, thanks to their demands that they be allowed to fulfill their own destinies. The *Encyclopedia of United States Indian Policy and Law* attempts to document both the tragedies and this Native resilience.

A Complicated History

Relations between the U.S. government and Native peoples have always been complicated. Even the idea of a “U.S. Indian policy” has been problematic because a single “Indian nation” never existed. Rather, hundreds of tribal nations stretched from the Atlantic to the Pacific, all with their own histories, languages, cultures, and interests. U.S. policies toward Native peoples often were contradictory because of the different relationships that specific tribes had with the

United States. In addition, federal policy was always influenced by the responses, reactions, lobbying, and activism of Native Americans.

From the founding of the United States to the modern era, presidents, governors, legislators, judges, generals, and diplomats have participated in the development, implementation, and interpretation of Indian policy. The *Encyclopedia of United States Indian Policy and Law* attempts to provide an introduction to their actions, ideas, and programs. Many American presidents have taken a direct interest in American Indians, whether it was to remove them from their homelands, as a series of presidents tried to do in the first decades of the United States’ existence, or attempts to revive the principles of tribal sovereignty and self-determination, as Richard M. Nixon sought to do in the 1970s. Many members of Congress also endeavored to place their own stamps on federal Indian policy. They include politicians Henry L. Dawes, who has become infamous with Native peoples for the allotment act that bears his name, and Daniel Inouye, who cosponsored the Indian Gaming Regulatory Act that provided tribes with a new means of economic development and diversification. Supreme Court justices, including John Marshall, who declared the Indian tribes to be sovereign nations in *Worcester v. Georgia*, are also chronicled, as are the individuals—all men except for Menominee activist Ada Deer—who supervised the federal government’s Bureau of Indian Affairs. U.S.-Indian relations have also been marked by hundreds of wars and battles, many of which are considered in these pages. Although this is not an encyclopedia of U.S.-Indian wars, we have included the prominent and iconic warriors of the U.S. Army, including George Crook, George Armstrong Custer, and William Henry Harrison. Just as important in these volumes are the diplomats and peacemakers, such as William Clark, Joel Palmer, and Lawrence Taliaferro.

The history of U.S. Indian policy is as much a product of Native agency as it is of non-Indian action. Indian leaders, in other words, played as great a role in this policy history as did federal legislators, executives, and judges. Native chiefs, from Cornplanter to Wilma Mankiller, worked to preserve the

autonomy of their nations as they guided their people through changing times. Indian war leaders, such as Tecumseh and Crazy Horse, resisted U.S. aggression and endeavored to protect their homelands from confiscation and their peoples from what they deemed a corrupting culture. Moved by forces we find difficult to understand, Native prophets such as Handsome Lake, Tenskwatawa, and Wovoka devised a variety of responses, ranging from accommodation to outright violent resistance, in their search for a path their people could walk while navigating the new maze of life created by the arrival of non-Native outsiders. Activists, from William Apess in the nineteenth century to the “Red Power” protesters in the twentieth, lobbied, protested, and argued on behalf of their peoples. Some of them saw common interests among the panoply of Native societies and forged pan-Indian movements committed to the Indian cause, however they defined it in their time. In this encyclopedia, we hope to make clear to readers that Native peoples have been and continue to be actively engaged in resisting, reforming, bending, and otherwise helping to make the policies the U.S. government has applied to them.

Devising programs and policies involving Indians has always been complex and frustrating for the national government. Often the policies, and their results, have not been pleasant. The history of U.S. Indian policy is a long, ugly trail marked by death, forced relocation, racial bigotry, and cultural genocide. Sometimes tragedy resulted from premeditated assault on Native lives, rights, and culture. In some instances, such as at Wounded Knee in 1890, agents of the United States committed atrocities and war crimes against Native peoples. At New Echota in 1835, and in other treaty negotiations throughout the West, federal officials deliberately violated fundamental principles of ethical behavior to expropriate Indian land, wealth, or resources. Sometimes the suffering of Native peoples was the unforeseen consequence of the government’s attempts to act in the Indians’ best interests. For instance, President George Washington’s secretary of war, Henry Knox, believed that Indians were of equal innate intelligence to white Americans and that they merely needed a proper education and the appropriate environmental circumstances to elevate themselves to the supposedly lofty perch of Anglo-American civilization. Knox’s “civilization program,” designed to prepare Native people for assimilation, was thus motivated by what he thought was an honorable intent. Unfortunately, his confidence in the superiority of his own civilization set the United States on a course to destroy all Native cultures within the reach of its influence.

Languages, healing practices, means of subsistence, dances, educational practices, and other ways of daily living would be affected negatively by the American effort to “civilize” the Indian over the next 150 years.

When Indians decided not to accommodate the U.S. government’s demands that they surrender their territory or step aside to permit national expansion, they faced invasion, forced dispossession, and relocation. The removal and reservation policies were both based on the principle that Native peoples should get out of the way of the burgeoning American state and isolated in places where they could begin to embrace Anglo-American civilization on their own by learning to speak English, becoming adherents to one form of Christianity or another, and learning to farm like American yeomen. While undergoing this acculturative transformation, Indians were not to question the demands of the United States. Rather, they were to cede their lands and surrender their natural resources. Indians wishing to avoid this fate, according to nineteenth-century U.S. policy makers, had to embrace individual property ownership and American ideals, leaving their tribal connections and culture behind. In the late nineteenth and twentieth centuries, hundreds of young Indians were shunted off to boarding schools, where they were forbidden to speak their languages, required to cut their hair, and taught to look with embarrassment on the places, peoples, and cultures from whence they came.

During the course of the twentieth century, Native Americans were buffeted by a U.S. government that seemed unable to decide what it wanted from them. Should Native peoples abandon communal ownership of property and their traditional cultures, as the proponents of allotment demanded? Should they try to reestablish their tribal land base and tribal governments as John Collier, the commissioner of Indian affairs, encouraged them to do during the Indian New Deal? Should they wean themselves of federal paternalism and abolish their tribal institutions as the advocates of termination required? For the first sixty years of the twentieth century, Indian peoples adapted, protested, and lobbied as they tried to appease and make their case to an increasingly powerful U.S. government that rarely considered their opinions. Native activists and tribal leaders during these decades worked with passion and determination to retain some semblance of tribal identity for their peoples and to preserve cherished aspects of their national cultures.

The period since approximately 1960 has been one marked by a reaffirmation of tribal sovereignty and a reinvig-

oration of Native cultures. This rebirth has been generally approved of and supported by the U.S. government, which finally began to consider Indian opinions on how the federal-tribal relationship should be maintained. Although the occasional Supreme Court justice, senator, or state legislator has tried to forestall the renewal of tribal nations, for the most part the last five decades have been marked by generally positive trends—improved Native healthcare, tribal economic expansion and diversification, and increased political and legal tribal autonomy. That is not to say that all is rosy on reservations or in urban Indian homes. Native peoples still fall below the national mean in almost every measure of societal well-being. We can hope, however, that the time when the United States simply imposed its will on the tribes has passed and that we have entered into a new, lasting age of tribal sovereignty in which Indian nations and the United States deal with each other on a government-to-government basis.

The Content of This Encyclopedia

U.S.-Indian relations are so complex that an encyclopedia on the topic requires discussion of a broad array of subjects and the participation of scholars from a number of disparate disciplines. A significant amount of space in the *Encyclopedia of United States Indian Policy and Law* is devoted to legal issues and the syntheses of legal scholars, reflecting the fact that the law touches on almost every aspect of Native life. For example, the art, artifacts, and sacred sites of Indians have been the subject of lawsuits and legislation. Legal disputes over tribal natural resources, such as oil, gold, and natural gas, are part of the history of U.S.-Indian relations, as are environmental conflicts over water rights, fisheries, whaling, the buffalo, eagles, and other endangered species. Readers will find coverage of such topics in these volumes.

Native culture has changed dramatically over time and has been entwined in the history of U.S.-Indian relations and law. Indians have been icons of American nationalism, appearing on coins and currency in the nineteenth century and stamps in the twentieth and twenty-first centuries. From the beginning of the nation, Native peoples have been depicted on and in public buildings, in some places as heroic first Americans and in others as subjugated enemies. On occasion, Americans have venerated Indians by making them symbols of the nation even as they worked to take their land and destroy their culture. In the twentieth century, some sports teams selected Indians as their “mascots” or invoked Indians in their names. Americans who claimed to be “honoring” supposed Native character traits failed to see how such

caricatures could be degrading. The offensiveness of some of these images of Natives has led to litigation and might someday lead to legislation; culture, thus, also has an important place in an encyclopedia on U.S. Indian policy and law.

Most important, the political relationship between Indians and the United States has been, and remains, complicated and significant. U.S. courts have struggled with definitive questions: What is an Indian, and how do tribes, states, and the United States define one? What is a tribe? Is a tribe a foreign nation or a domestic, dependent one? What are the sovereign powers of a tribal nation? How do federal and state laws complement or impinge on those of an Indian nation? American law and policy have fluctuated over the years on these questions. Money, power, land, and personal identity turn on these issues and will continue to do so in the foreseeable future.

This encyclopedia explores these questions and others. We hope that it will help all Americans understand the complex and difficult policy issues surrounding relations among Indian tribes, Native peoples, and the U.S. government.

Organization, Terminology, and the Selection of Subjects

The *Encyclopedia of United States Indian Policy and Law* opens with a series of essays that periodize and survey the history of U.S. policy. Readers will note that the dates of these periods overlap in some cases. Our editorial board felt periodizing in this way would remind readers that history often resists human categorization and that new policies are conceived, developed, and implemented at the same time that previous policies are being gradually abandoned. While the U.S. government was imposing the “civilization” policy on Native Americans during the early nineteenth century, for instance, the roots of the removal policy were taking shape in the mind of Thomas Jefferson. The result was one of the most dramatic and regrettable events in Native American history: the forced removal of the Cherokees from the Southeast, where they had adopted the lifestyle, religion, market economy, and political institutions of neighboring white Americans in response to the U.S. government’s call for them to embrace American “civilization.” The Cherokees attempted to conform to one federal policy only to suffer the disastrous consequences of the policy that succeeded it. Our periodization honors these dramatic overlaps. After the overview surveys, readers will find a host of entries—biographies, legal cases, statutes, wars, and thematic essays—arranged in alphabetical order.

Perhaps the most difficult challenge in preparing any encyclopedia is deciding what to include. We are sure that some readers will be disappointed to find particular battles or statutes omitted while others have been covered. Particularly daunting was the process of determining which American Indians to feature in biographical articles as many, many Native individuals deserve attention in the study of U.S. Indian policy. Our decisions were not guided by an intention to include “Great Indians.” Rather, we made every effort to select those Native Americans who had a significant impact on federal policy, whether they did so as politicians, diplomats, educators, activists, or leaders in war.

Another difficult decision concerned appropriate terminology. With the emergence of the term “Native American,” scholars began to explain at the beginning of their books what terms they used for Native peoples and why. We feel compelled to do so here as well, having settled on an inclusive approach. The terms “Indian,” “American Indian,” and “Native American” have become the most common collective names for the indigenous peoples of North America. Some anthropologists decades ago tried to impose “Amerindian” on the community of scholars, but fortunately, this term has been generally abandoned. Native peoples in Canada are commonly considered collectively as “First Nations” peoples. Presently, some Native scholars are calling for the use of the term “Indigenous” or simply “Native.” Some publishers require their authors to use the collective “Native American” in every instance. Not one of these terms is satisfactory to all, and all authors have their own preferences.

In determining the terminology for this encyclopedia, our primary goal was to be sensitive to the wishes of our Native readers, though they themselves are divided on what collective term should be used. First, we asked authors to use the name of the tribal nation when possible, ideally the name of the nation that its people prefer. Second, we had faith that our authors, many of whom are Native, would be sensitive to this issue. We therefore left to each author the decision on how he or she refers to the collective indigenous inhabitants of North America; hence, terminology is not consistent throughout these volumes. We did occasionally insert another of the terms to avoid redundancy, but in each case, authors had the final say on the term used. Some scholars, such as your undersigned editors, tend to use the terms “Native,” “Native American,” “Indian,” and “American Indian” interchangeably. We do so not just to avoid redundancy, but more so to express in a subtle way

that we are not comfortable with settling on any particular term and that we understand some people are offended by one term and prefer another. We should also note here that some authors objected to the use of the term “tribe,” and we made every effort to accommodate their individual preferences. For reasons of clarity and logic, we have used the traditional plural to refer to a tribe when possible. In other words, we refer to “the Catawbas” as a group, rather than “the Catawba.”

Illustrations and Design

The cover illustrations were selected to represent the passage of time, from the nineteenth century to the present. Volume one displays a painting by John Mix Stanley depicting an international council of tribes at Tahllequah in the Cherokee Nation in 1843. Volume two presents two Native men, dressed in their fancy dance regalia, conversing with each other at the 2002 Inaugural Pow Wow marking the creation of the National Museum of the American Indian on the Mall in Washington, D.C. The U.S. Capitol dome hovers over them in the background, just as the power of the United States has weighed on the lives of American Indians for more than two hundred years.

The design featured in each chapter opening is a Seneca spontoon tomahawk pipe. We think the depiction of a peace pipe constructed in the form of a tomahawk perfectly symbolizes the complex history of U.S.-Indian relations.

Acknowledgments

This project, literally “years in the making,” would not have been possible without the assistance of the superb staff at CQ Press. Acquisitions editor Doug Goldenberg-Hart was enthusiastic about the project from the beginning, so much so that he came by to listen to one of our dry lectures at the Hart Senate Office building. He was always reasonable and encouraging. Doug’s requests for the inclusion of certain articles showed us his devotion to the project. Andrea Pedolsky, editorial director, also provided superb leadership throughout the process. Managing editor Joan Gossett ensured that the project was on time and of the quality that we had hoped for when we began this journey. Our project managers, January Layman-Wood and Nancy Matuszak, made it all happen. Without them we would have been lost in a wilderness of our own making. We are sure our families will always remember them for what they did to us in the year 2008. In all seriousness, they were joyful and sympathetic taskmasters.

Production editing was provided by Emily Bakely, Sarah Fell, and Belinda Josey. Colin Agnew, our project assistant, pestered authors, maintained contracts and contacts, and kept track of everything. Kristin Teigen, Tim Garrison's former graduate assistant and now an independent historian, not only checked facts for numerous articles, but also contributed several articles to this collection. We thank her profusely for her work. Fredd Brewer, Paul Finkelman's administrative assistant, helped manage our databases.

We also want to thank our copy editors. Shannon Kelly carried the ball for most of the project, and we salute her skill, her eye for style and concision, and her wit. We also want to thank Lawrence Baker, Jennifer Campi, Margo Harris, Sabra Bisette Ledent, Colleen McGuinness, Kate Macomber Stern, Robin Surratt, and Tracy W. Villano, who all joined the team at the end and pulled us over the finish line.

Most of all, we owe a huge debt of gratitude to our editorial board: Andrew Fisher, Brian Hosmer, Stacy Leeds, Judith Royster, and Rennard Strickland. They helped determine which articles to include and their length. More important, they read dozens of articles and brought their understanding and knowledge of policy and law to bear on content issues. Several scholars, particularly Theda Perdue and Michael D. Green, offered suggestions that improved the quality of the encyclopedia. Linda Walton and Tom Luckett, chairs in the history department at Portland State University, provided emotional support by acknowledging the scholarly value of this project. A faculty enhancement grant from Portland State helped fund some of our editorial work.

We pay tribute to the scores of historians, law professors, lawyers, journalists, writers, and scholars from a variety of fields who have shared their knowledge in making this ency-

clopedia possible. You will not only find national experts writing on subjects in their field; you will also find a host of dynamic up-and-coming scholars who will be making their mark on the history of policy and law in the future. We are proud of our roster of Native scholars on the editorial board and in our large family of authors. Our supposition was that we could not provide a Native perspective on the history of U.S. policy if Native scholars were not truly participating in this endeavor from beginning to end and from front to back. We note here that we intend to devote a portion of any royalties received from the sales of the encyclopedia to support Native students in higher education.

We also want to honor one scholar who has done more for the study of U.S. Indian policy than any other. Francis Paul Prucha, emeritus professor of history at Marquette University, has been a prolific student of U.S. Indian policy. His monumental study, *The Great Father: The United States Government and the American Indians*, is a survey of federal policy that will never be duplicated. A testament to his significance can be found in the dozens of authors who cite him in their bibliographies. Clearly, this encyclopedia would not have been possible without the scholarship of Father Prucha.

In closing, we want to express our appreciation to our families for their patience and support. We could not have completed such an enormous project without them. To our children, Sam Garrison, Abigail Finkelman, and Isaac Finkelman, who kept asking, "When's it going to be done, Dad?" we can now answer, "It's done."

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Creek Civil War (1813–1814)
Indian New Deal
Removal
Roosevelt, Franklin D.
Second Creek War (1836–1837)
Treaty Making: Treaty Ratification

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Denver Museum of Nature & Science
Camp Grant Massacre (1871)

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Civil War (1861–1865)
Confederate States of America
Davis, Jefferson

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Anderson, David

Brophy, William A.
Carleton, James Henry
Cloud, Henry Roe
Crawford, T. Hartley
Emmons, Glenn L.
Herring, Elbert
James, Jewell (Praying Wolf)
Jones, William A.
Lyons, Oren
Mundt, Karl E.
Seaton, Fred A.
Swimmer, Ross O.
Taos Uprising (1847)
Taylor, Nathaniel G.

TRENT CRABLE
Self-Determination

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American Indian Policy Review
Commission (AIPRC)
Gover, Kevin
Indian Gaming Regulatory Act
(IGRA; 1988)
National Congress of American
Indians (NCAI)
National Native American Bar
Association (NNABA)
Native American Rights Fund
(NARF)
Tribal Acknowledgment (Federal)
Tribal Acknowledgment (State)

CYNTHIA CUMFER
Dragging Canoe
Sevier, John
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STEVEN L. DANVER
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U.S. Supreme Court and Indian
Policy: 1978–

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Indian Territory
International Indian Conference of
1843
Kicking Bird
Sequoyah, State of

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Tribal Citizenship

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Diplomatic Delegations, Tribal
Indian Vocational Training Act
(1956)

Treaty Substitutes: Agreements and
Executive Orders

Trust Responsibility Doctrine

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Bureau of Indian Affairs (BIA)

Exhaustion Doctrine

Jourdain, Roger

Treaty Interpretation: Native
Understanding

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Buffalo Soldiers

Clum, John P.

Dull Knife

Elk v. Wilkins (1884)

Fetterman Massacre (1866)

Fort Laramie (1851), Treaty of

Grattan Fight (1854)

Indian Police Forces

McGillcuddy, Valentine T.

Spotted Tail (Sinte Gleska)

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The College of William & Mary

Adams, Hank

Fishing, Hunting, and Gathering
Rights

Kamiakin

Nez Perce War (1877)

Stevens, Isaac Ingalls

Stevens-Palmer Treaties (1853–1856)

United States v. Winans (1905)

Yakama War (1855–1856)

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Congress, U.S.

Constitutions, American Indian

Homestead Act of 1862

Indian Removal Act (1830)

Jackson, Andrew

Menominee Tribe v. United States
(1968)

Plenary Power Doctrine

Religious Freedom

States' Rights

Talton v. Mayes (1896)

Tee-Hit-Ton Indians v. United States
(1955)

Trade and Intercourse Acts

United States v. Washington (1974)

U.S. Indian Policy: Congress and
the Executive, 1960–

U.S. Supreme Court and Indian
Policy, 1966–1977

Williams v. Lee (1959)

STERLING FLUHARTY

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Bennett, Robert L.

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Commission on the Rights, Liberties,
and Responsibilities of the
American Indian

Hickel, Walter J.

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Bowles, William Augustus

Fort Jackson (1814), Treaty of

Hawkins, Benjamin

Horse, John

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Indian Adoption Project

Indian Rights Association (IRA)

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Indian, Definition of

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Indian Self-Determination and

Education Assistance Act (ISDEAA;

1975)

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First Seminole War (1817–1818)

League of the Iroquois

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Historical Research Associates, Inc.

Burke Act of 1906

Council of Energy Resource Tribes
(CERT)

Fletcher, Alice Cunningham

General Allotment Act (Dawes Act)
of 1887

Indian Claims Commission Act
(ICCA; 1946)

Johnson-O'Malley Act (1934)

Mitchell v. United States (1980)
(1983)

638 Contracts

Winters v. United States (1908)

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Mexico, Indian Policy of

Spain, Indian Policy of

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Military Policy of the United States,
1776–1860

Military Policy of the United States,
1860–1890

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Virginia, Indian Policy of

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Crazy Snake Uprising (1901)

Ex Parte Crow Dog (1883)

Major Crimes Act (1885)

United States v. Kagama (1886)

U.S. Indian Policy: Congress and
the Executive, 1845–1877

U.S. Supreme Court and Indian
Policy, 1935–1965

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Cherokee War of 1776

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Russia, Indian Policy of

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Little Crow

McKenney, Thomas L.

Medicine Lodge Creek (1867),

Treaty of

Native American Church (NAC)

Pontiac's Rebellion (1763–1766)

Pratt, Richard Henry

Red River War (1874–1875)

Van Buren, Martin

Yellow Thunder

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Gerard, Forrest J.

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Indian Preference Act (1934)

Indian Reorganization Act (1934)

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Congress, Native Americans in the

U.S.

Congressional Committees on Indian
Affairs

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Indian Financing Act (1974)

National Indian Gaming Commission
(NIGC)

Voting Rights

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*California v. Cabazon Band of Mission
Indians* (1987)

Equal Protection

Johnson v. M'Intosh (1823)

Preemption

Reserved Rights Doctrine

Santa Clara Pueblo v. Martinez (1978)

Worcester v. Georgia (1832)

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Harris, Fred

Harris, LaDonna

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Alaska Native Claims Settlement Act
of 1971

American Indian Religious Freedom
Act (AIRFA; 1978)

Articles of Confederation

Bozeman Trail War (1865–1868)

Citizenship: United States and State
Cochise

Fort Laramie (1868), Treaty of
Government-to-Government
Relations

Interior, U.S. Department of the
LaDuke, Winona

Little Bighorn (1876), Battle of
Ouray

Public Law 280 (1953)

Treaties: Historical Overview

United States–Indian Wars
(1848–1891)

U.S. Indian Policy: Congress and the
Executive, 1928–1946

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Custer, George Armstrong

Geronimo

Handsome Lake

Indians of All Tribes

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Kennekuk

Mangas Coloradas

McIntosh, William

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Relocation Program

Sacagawea

Sand Creek Massacre (1864)

Satanta

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Slocum, John
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Taos Pueblo of Blue Lake
Trail of Broken Treaties (1972)
Trudell, John
Wounded Knee Massacre (1890)

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Comparative Indigenous Policies

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American Horse
Bent, Charles
Burke, Charles H.
Fall, Albert B.
Ickes, Harold L.
Killdeer Mountain (1864), Battle of
Kingsbury, Cyrus B.
Lake Mohonk Conferences
Manypenny, George W.
Meriam Report
Myer, Dillon S.
Railroads
Religious Organizations and Indian
Policy
U.S. Indian Policy: Congress and the
Executive, 1944–1962
United States–Dakota War of 1862
Watkins, Arthur V.
Welsh, Herbert
Wheeler, Burton K.
Whipple, Henry B.
Work, Hubert

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Apache Wars (1860–1886)
Army, United States (1784–1890)

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Taxation

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French and Indian War (1754–1763)
Fur Trade
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Long, Stephen Harriman
Oklahoma
Trail of Tears (1838–1839)
United States–Indian Wars
(1776–1848)

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Oklahoma Indian Welfare Act (1936)
Ranch Management
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Employment, Regulation of
Tribal Employment Rights
Ordinances (TEROS)

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United Nations

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Bacon's Rebellion (1675–1677)
Rhode Island, Indian Policy of
Netherlands, Indian Policy of

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Mascots
Trademarks and Trade Names

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Indian Art Law

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Greenville (1795), Treaty of

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Jackson, Helen Hunt
Pennsylvania, Indian Policy of
Sweden, Indian Policy of

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Alcohol
Cohen, Felix S.

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Race and Racial Thinking
Slavery: Indian Slaveholding

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New Echota (1835), Treaty of
Oconostota
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Trust Lands

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Census
Roosevelt, Theodore
United States v. Cook (1873)

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Conference
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Cherokee Nation v. Georgia (1831)
Conquest, Doctrine of
Constitution, U.S.
Discovery, Doctrine of
Factory System
Housing
Indian Child Welfare Act (1978)
Jefferson, Thomas
Just War
Lewis and Clark Expedition
Louisiana Purchase
*Lyng v. Northwest Indian Cemetery
Protective Association* (1988)
Montana v. United States (1981)
Northwest Ordinance (1787)
Peace Medals
Proclamation of 1763
Tecumseh
Tenskwatawa
Terra Nullius
Treaty Interpretation: Judicial Rules
and Canons of Construction
Washington, George
Whaling

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Salkehatchie*
Fallen Timbers (1794), Battle of
Harrison, William Henry
Johnson, Richard M.
Lord Dunmore's War (1774)

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Ten Bears (Parra-Wa-Samen)

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Abourezk, James
Alcatraz Island, Seizure of (1969)
Banks, Dennis
Bellecourt, Clyde
Bellecourt, Vernon
Deloria, Vine, Jr.
Determination of Rights and Unity
for Menominee Stockholders
(DRUMS)
Gorton, Slade
Hallett, William E.
Haskell Indian Nations University
Houston, Sam
Indian Land Consolidation Act
(ICLA; 1983)
Indian Law Resources Center
LeFlore, Greenwood
Leupp, Francis E.
McCaleb, Neal
Meigs, Return J.
National American Indian Court
Judges Association (NAICJA)
Office of Tribal Justice (OTJ)
Osceola
Owen, Robert Latham
Schurz, Carl
Sheridan, Philip
Sibley, Henry Hastings
South Carolina, Indian Policy of
Tobacco
Tribal Courts
Tribally Controlled Community
College Assistance Act of 1978
Washakie
Women's National Indian Association
(WNIA)

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Canada, Indian Policy of

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American Revolutionary War
(1775–1783)
Civilization Program
Dearborn, Henry
Great Britain, Indian Policy of
Indian Policy of the Continental
Congress
Lincoln, Abraham
U.S. Indian Policy: Congress and the
Executive, 1803–1848
War, U.S. Department of

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 Black Hawk (Makataimeshekiakiak)
 Black Hawk War (1832)

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LIAM PASKVAN
Passamaquoddy Tribe v. Morton (1975)

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 Harney, William S.

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 Decolonization

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 Attakullakulla (Little Carpenter)

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 New York, Indian Policy of

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Seminole Tribe of Florida v. Florida
 (1996)

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 Indian Education Act (1972)

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 Beaver Wars (1639–1701)

St. Clair, Arthur
 Tuscarora War of 1711–1713

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 New Mexico, Indian Policy of
 U.S.–Mexican War (1846–1848)

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 Peacemaker Courts
 Sovereign Immunity

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 Bill of Rights
 Indian Commerce Clause
 Indian Tribal Energy Development and Self-Determination Act (ITEDSDA; 2005)
 “Indians Not Taxed”
 McCarran Amendment (1952)
 Mining and Mineral Rights
 Restricted Lands
 Treaty Abrogation
United States v. Shoshone Tribe of Indians (1938)
 U.S. Supreme Court and Indian Policy, 1871–1934
 U.S. Supreme Court and Indian Policy, 1978–
 Water Rights

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 Compact of 1802
 Franklin, Benjamin
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 Hopewell (1785–1786), Treaties of Indian Country
 Paris (1763), Treaty of Stuart, John
 Treaty Making: Protocols
 U.S. Indian Policy: Congress and the Executive, 1775–1803
 War of 1812 (1812–1814)
 Wayne, Anthony

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 Carson, Christopher “Kit”
 Crockett, David “Davy”
 Fort Harmar (1789), Treaty of Fort Stanwix (1768), Treaty of Harmar, Josiah
 Indian Appropriations Act (1871)
 Indian Citizenship Act (1924)
 Jay’s Treaty (1794)
 Ordinance for the Regulation of Indian Affairs (1786)

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 Cayuse War (1848–1855)
 Coeur d’Alene War (1858)
Morton v. Mancari (1974)
 Paiute (Pyramid Lake) War (1860)
 Snake War (1866–1868)
 Spirit Lake Uprising (1857)

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 American Fur Company
 Annuities
 Clark, William
 Gallatin, Albert
 Ghent (1814), Treaty of Missions and Missionaries
 Paris (1783), Treaty of

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 Aboriginal Indian Title
 Constitution, Iroquois Influences on the U.S.
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Lone Wolf v. Hitchcock (1903)
 Ross, John
 Smallpox
 Sohappay, David

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State Treaties with Indian Tribes

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Second Seminole War (1835–1842)

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Archaeological Resources Protection
Act (ARPA; 1979)
Black Hills
Crime, Regulating in Indian Country
Cultural Property
Employment Division v. Smith (1990)
Indian Civil Rights Act (1968)
Native American Graves Protection
and Repatriation Act (NAGPRA;
1990)
Oliphant v. Suquamish Indian Tribe
(1978)
Sacred Sites
United States v. Lara (2004)
United States v. Sioux Nation (1980)

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Cooper, Peter
Equal Footing Doctrine
Fitzpatrick, Thomas
Fredericks, Thomas W.
Hall, Louis
Indian Business Development Fund
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National Indian Youth Council
(NIYC)
National Museum of the American
Indian Act (NMAIA; 1989)
Native American Languages Act
(1990)
Nixon, Richard M.
Nongovernmental Organizations
(NGOs)
Religious Freedom Restoration Act
(RFRA; 1993)
Right of Soil
Smith, Kenneth L.
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World War II (1939–1945), American
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Native American Programs Act
(NAPA; 1974)

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OVERVIEWS OF U.S. INDIAN POLICY AND LAW



Indian Policy of the Continental Congress

When the Second Continental Congress convened in Philadelphia in May 1775, few of its members were planning to design a national Indian policy. The delegates were meeting in accordance with the resolutions of the First Continental Congress (1774), which had issued a stern protest to Parliament against the Coercive Acts that were passed in retaliation for the Boston Tea Party. Their original charge was to try to foresee Parliament's reaction to that protest and to implement a trade embargo against Britain if its government proved unresponsive. Instead, they found themselves the directors of an armed rebellion that had erupted in New England the previous month. The rebellion obliged Congress to transform itself into something resembling a national government, the better to pursue the intensifying war between the American colonies and the British government. By the end of 1775, Congress had of necessity usurped several powers of the British Crown: it had created an army, opened secret relations with France, and sent treaty commissioners to meet with the Iroquois and Delaware Indians to secure their neutrality or friendship.

Colonial Precedents

This was not the first time that Americans from different colonies had worked together to negotiate alliances or agreements with Native Americans. Beginning in the late seventeenth century, several colonial governments—notably New York, Pennsylvania, Virginia, and South Carolina—had signed treaties with, or requested military assistance from, the Six Nations of Iroquois, thereby tying the colonies and the Iroquois together in a loose alliance known as the Covenant Chain. In 1754 delegates from several colonies had met in Albany and debated Benjamin Franklin's plan to create an intercolonial government with the power to set a common Indian policy. And in 1770 New York and Virginia had tried to hold an intercolonial congress where delegates from the various provinces could develop common regulations and practices respecting Indian trade. Thus, the members of the Continental Congress did have several decades of colonial experience in joint policy making and diplomacy upon which to draw.

Diplomacy, Alliance, and War, 1775–1782

In negotiating with the western Indians at the outset of the American Revolutionary War (1775–1783), Congress applied the same diplomatic techniques that British and colonial agents had developed earlier in the century. It authorized Silas Deane, its agent in France, to purchase cloth, beads, ironwares, and other diplomatic gifts for potential Indian allies. It organized treaty councils with the Iroquois and the other northern Indian nations, at which federal commissioners provided their guests with food and gifts, guaranteed their pre-war borders, and signed neutrality agreements with them. It also appointed agents to the Six Nations of Iroquois (Philip Schuyler) and to the Northwest Indians (George Morgan). Both agents met regularly with Native American leaders to distribute gifts and hear grievances; Morgan, for example, made several trips to Wyandot, Delaware, and Shawnee towns between 1776 and 1779 in an effort to counter the influence of British governor James Hamilton.

Congress also tried to form military alliances with Indian nations or communities that solicited American assistance. During the Revolutionary War the Continental Army employed several hundred Caughnawaga, Oneida, Tuscarora, and Delaware warriors as auxiliaries and scouts. The Continental Congress used gifts and hospitality to “brighten the chain of friendship” (an Iroquois phrase) between these allies and the United States, and in 1778 it signed a treaty of alliance with the Delawares, promising them American assistance and eventual incorporation into the Union as a state.

Congress also paid \$925 to educate several Caughnawaga children at Eleazor Wheelock's Indian school in New Hampshire, and several hundred more for the boarding and education of the sons of several allied Delaware chiefs. These educational outlays were initial manifestations of the “civilization policy” that American presidents and officials would develop during the early national era. More importantly, they were a means of obtaining hostages, thereby ensuring the allegiance of the students' parents.

The members of Congress generally did not concern themselves with military campaigns against Britain's Indian

allies. One exception was the 1779 Continental Army expedition against the Six Nations of Iroquois. In January 1779, General George Washington met with a congressional conference committee to discuss administrative issues and to plan that year's campaign. At this meeting Washington and the committee members decided to commit the Continental Army to "harassment" of the Six Nations in retaliation for Iroquois raids on settlements in New York and Pennsylvania the previous year. In the summer of 1779, an army expedition under Daniel Brodhead and John Sullivan accordingly laid waste to forty Iroquois towns and killed nearly one thousand people.

The Limits of Congressional Power

There were some significant limitations on Congress's ability to regulate Indian affairs and recruit allies during the Revolutionary War. The Woodland Indians in the East desperately needed European goods, since the war had virtually shut down the fur trade in that region, but Congress's poor credit and Britain's control of the sea lanes made it increasingly difficult for American officials to supply Indians' needs. In 1776 Congress spent over \$260,000 on Indian diplomacy, chiefly on provisions, presents, and the establishment of a storehouse for the Oneidas in western New York. However, that figure dropped to \$55,000 by 1778 and to \$2,800 by 1781. This decreased funding was one reason why 80–90% of the Indian men who fought in the Revolutionary War took the side of Britain.

Moreover, Congress never enjoyed full jurisdiction over Indian relations. A clause in the early draft of the first federal constitution, the Articles of Confederation, gave Congress uncontested authority to regulate Indian diplomacy and trade, but after Virginia and South Carolina congressmen objected to the clause the drafters modified it. The final version of the Articles, completed in 1777 and ratified in 1781, gave the U.S. government jurisdiction over "Indians, not members of any of the states." This loophole was large enough to allow the individual state governments to enact their own Indian policies, on the grounds that the Trans-Appalachian Indian nations resided within their colonial charter boundaries. The four southern states of Virginia, North and South Carolina, and Georgia conducted their own expeditions against the Cherokees, and held peace treaties whereby they extracted large land cessions from that nation. Virginia seized British posts in the Ohio Valley, which it claimed under its colonial charter, in 1778–79, and in the early 1780s Virginia and Pennsylvania

militia raided Delaware and Shawnee towns in the same region.

Postwar Policy and the Conquest Theory, 1783–1786

In 1782 American diplomats signed preliminary peace articles with Great Britain, and in April 1783 the Continental Congress proclaimed an armistice with Britain's Indian allies. Later that year two congressional committees began drafting reports that outlined the United States' postwar policy toward the Trans-Appalachian Indian nations. The committee reports stipulated that in return for the United States friendship and protection, the western Indians needed to make restitution for their attacks on white settlers during the war, and they could do so by ceding lands to Congress and the southern states. They also proposed that federal treaty commissioners make a token payment of gifts and provisions for these land cessions, and that they promise the restoration of peaceful trade as soon as possible.

Federal commissioners, accompanied by American soldiers, met the chiefs and captains of several Indian nations throughout the next two years. One group of officials signed treaties with the Six Nations of Iroquois (Fort Stanwix, New York, October 1784); with the Chippewas, Delawares, Ottawas, and Wyandots (Fort McIntosh, Pennsylvania, January 1785); and with the Shawnees (Fort Finney, Ohio country, January 1786). The other met with the Cherokees, Choctaws, and Chickasaws at Andrew Pickens's Hopewell plantation in South Carolina (November 1785–January 1786). The first group of commissioners, which included Richard Butler and George Rogers Clark, took a hard line toward the northern Woodland Indians. They informed the Natives that they were "conquered peoples"; demanded an immense land cession, which amounted to approximately two-thirds of the present-day state of Ohio; threatened the Indians with destruction if they did not comply; and took hostages as security for the return of wartime captives. The southern commissioners, who included Benjamin Hawkins and Joseph Martin, were more temperate in their behavior but were unable to grant the southern Indians' urgent requests: removing white intruders from the Cherokee and Chickasaw lands and supplying those two tribes with trade goods.

In the spring of 1786, Congress approved the commissioners' treaties and passed an Indian Ordinance that established a peacetime Indian department. The new ordinance provided for two federal superintendents of Indian affairs, one for the communities north of the Ohio River and one

claimants in the Southwest, North Carolina and Georgia, refused to cede their western land claims to the Union, and so the federal government could not extend its jurisdiction into the region. (The Articles of Confederation prohibited Congress from interfering with Indian affairs on territory claimed by individual state governments.) Instead, Congress had to ask the states of North Carolina, South Carolina, and Georgia to hold a joint treaty conference with the southern Indians. The three states' legislatures delayed for over a year while they argued over logistics and finances, and their commissioners did not send invitations to the Creeks and Cherokees until the spring of 1789, by which time the Continental Congress that authorized their commissions had expired.

The Treaty of Fort Harmar, 1789

Meanwhile, Arthur St. Clair began preparations for his northern treaty council in the winter of 1787–1788. However, an attack by Ottawa warriors on the storehouse St. Clair had constructed for his treaty goods caused the governor to move the conference from neutral ground—the falls of the Muskingum River—to the federal stronghold of Fort Harmar (in present-day Marietta, Ohio). This decision alienated many suspicious Northwest Indians who feared St. Clair would imprison or kill them if they met him at an American fort. Consequently, only a few hundred Iroquois and Northwest Indian chiefs and captains attended the governor's conference in December 1788 and January 1789. At the conference several Wyandot chiefs tried to convince St. Clair to accept a modified Indian boundary in the Northwest and halt American settlements west of the Muskingum River. The governor refused and insisted that the Northwest Indians renew the Fort McIntosh cession. In the final Treaty of Fort Harmar (January 9, 1789), however, he did permit the Indian signatories to continue hunting in the ceded lands, and paid them \$6,000 worth of goods. A separate treaty with the Six Nations of Iroquois, which St. Clair negotiated at the same conference, renewed the Treaty of Fort Stanwix and paid the Iroquois \$3,000.

The Treaty of Fort Harmar was no more successful in establishing peace with the Northwest Indians than previous

treaties had been. The majority of the region's Indians, who were not represented at the conference, disavowed the authority of the chiefs and captains who did attend, and by the summer of 1789 Northwest Indian warriors were again raiding American settlements in the Ohio Valley. The treaty did, however, set U.S. Indian policy on a new course—or, rather, return it to the course that Congress had followed during the Revolutionary War—of managing Native Americans through negotiation and cash subsidies, rather than through threats and hostage-taking. In the summer of 1789, the new Federal Congress acknowledged this change by affirming that the Fort Harmar treaty was then in force, thus making it both the last act of Confederation Indian policy and the first formal act of U.S. Indian policy under the Constitution.

See also *American Revolutionary War (1775–1783); Articles of Confederation; Civilization Program; Fort Harmar (1789), Treaty of; Knox, Henry; Northwest Ordinance; Washington, George.*

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BIBLIOGRAPHY

- Calloway, Colin. *The American Revolution in Indian Country: Crisis and Diversity in Native American Communities*. Cambridge, Mass.: Cambridge University Press, 1995.
- Downes, Randolph. *Council Fires on the Upper Ohio*. Pittsburgh: University of Pittsburgh Press, 1940.
- Horsman, Reginald. *Expansion and American Indian Policy, 1783–1812*. Norman: University of Oklahoma Press, 1992.
- Jensen, Merrill. *The Articles of Confederation: An Interpretation of the Social-Constitutional History of the American Revolution, 1774–1781*. Madison: University of Wisconsin Press, 1940.
- . *The New Nation: A History of the United States during the Confederation, 1781–1789*. New York: Knopf, 1950.
- Jones, Dorothy. *License for Empire: Colonialism by Treaty in Early America*. Chicago: University of Chicago Press, 1982.
- Mintz, Max. *Seeds of Empire: The Revolutionary Conquest of the Iroquois*. New York: New York University Press, 1999.
- Mohr, Walter Harrison. *Federal Indian Relations, 1774–1788*. Philadelphia: University of Pennsylvania Press, 1933.
- Sosin, Jack. *The Revolutionary Frontier, 1763–1783*. New York: Holt, Rinehart, and Winston, 1967.
- White, Richard. *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815*. Cambridge, Mass.: Cambridge University Press, 1991.



U.S. Indian Policy: Congress and the Executive, 1775–1803

The policy of the United States government toward American Indians underwent a series of profound shifts between the start of the American Revolutionary War (1775–1783) and the conclusion of the Louisiana Purchase. The United States's policy swung between treating the various Indian nations as roughly sovereign equals or as conquered dependents. American policies also varied between tribal nations. Overall, while United States policy makers looked to the Indian nations as trading partners and allies (as had their British predecessors) during this period, they became increasingly committed to acquiring Indian land. Although driven largely by changing conceptions of national self-interest, U.S. Indian policy also came to be informed by Enlightenment thinking that saw racial attributes as fluid and changeable; given the proper stimuli, Enlightenment-influenced founders believed, American Indians could be “civilized” and made to live as did European Americans. These policies of land acquisition and “civilization” were ultimately unified during Thomas Jefferson’s presidency, with the acquisition of Louisiana marking a major turning point.

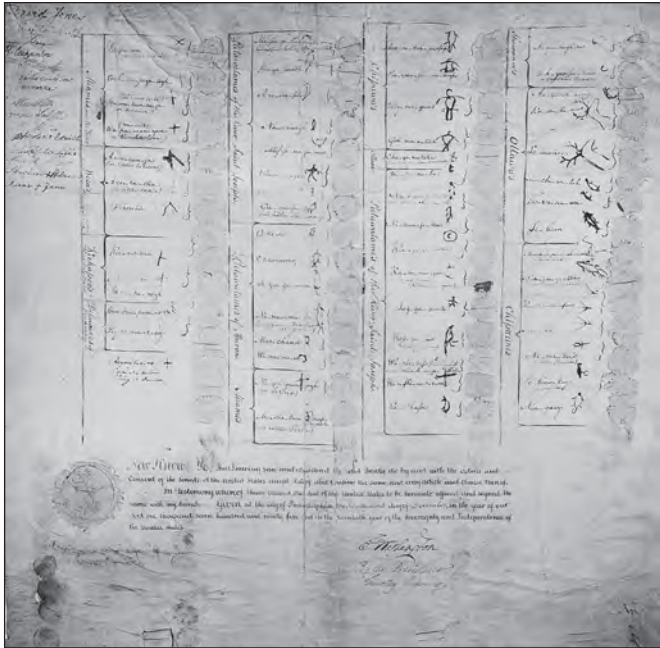
Indian Policy during the Revolutionary War, 1775–1783

Although American Indian nations played significant roles in the interimperial wars earlier in the eighteenth century, the Continental Congress hoped to persuade the Indian nations to remain neutral at the start of the Revolutionary War. In conducting Indian policy, Congress mimicked both the institutional structures and negotiating forms of its British predecessors. Less than two months after the battles at Lexington and Concord, on July 12, 1775, Congress created three separate administrative units—the Indian departments—for managing Indian relations. The northern department included the Iroquois Six Nations and all the nations north of them; the southern department encompassed the Cherokees and all the nations to the south; the middle department was comprised of the nations in between, essentially the Indians of the Ohio Valley and Pennsylvania. Congress appointed five commissioners to oversee the

southern department and three commissioners for each of the other departments. The commissioners possessed extensive power to negotiate with the nations within their department, to distribute gifts to maintain the Indian nations’ friendship, and to use gift-giving, persuasion, and even force to hinder the actions of British Indian superintendents within their departments. Congress had created an institutional structure similar to that of the British Indian superintendencies whose influence it was designed to counter.

Congress initially encouraged Indian nations to adopt a posture of neutrality in the war. The day after creating the Indian departments, Congress approved a speech to be given to the Iroquois that described the conflict between the American colonies and Great Britain as a “family quarrel” and urged the Iroquois to remain neutral. Commissioner Philip Schuyler delivered this message during conferences in New York at German Flats and Albany in August and September 1775. By the early months of 1776, rumors had spread that the Iroquois were actively siding with the British (this was mostly untrue at this point), resulting in both British and American agents actively courting the Iroquois, which led to the Six Nations becoming divided by mid-1776. Delegates from only four of the six nations journeyed in June 1776 from Iroquoia to Philadelphia to meet the leaders of the Continental Congress. As the war continued to unfold, the rift within the Six Nations deepened. Iroquois warriors fought with both British and American forces at the Battle of Oriskany (1777), and the Continental Army invaded Iroquoia under General John Sullivan’s leadership in August 1779, destroying many villages.

In the middle department, Commissioner George Morgan also shifted his diplomatic posture from promoting neutrality to actively courting Indian alliances with the United States. Most of the Ohio Valley nations were unresponsive, having committed themselves either to neutrality or to open alliance with Britain due to the diplomacy of British governor Henry Hamilton. However, the Delawares (Lenapes) did negotiate with Morgan, and the parties concluded a treaty at Fort Pitt on September 17, 1778—the United States’ first formal Indian treaty after independence.



The Treaty of Greenville, bearing the signatures of Indian chiefs and warriors, followed the defeat of Shawnee chief Blue Jacket's forces at the Battle of Fallen Timbers to the federal army. The tribes surrendered most of the Northwest Territory to the United States.

Matters in the southern department were even more grave for the United States at the start of the war. Early in 1776 the Cherokee responded to Hamilton's request to join the British side, and, under the leadership of Dragging Canoe, Cherokee warriors attacked many American settlements. Forces from Virginia, North and South Carolina, and Georgia counterattacked and defeated the Cherokee, forcing their surrender in April and May 1777. Low-level conflict between the southern Indians and American settlers persisted through the end of the war. Despite the defeat of the Cherokee on the battlefield, most southern Indian nations remained loyal to the British government, primarily due to the influence of southern Indian superintendent John Stuart.

Beyond its alliances with the Delawares, a minority of the Iroquois (the Oneidas and Tuscaroras in particular), and some smaller Indian nations solidly within U.S. territory (such as the Stockbridge Indians), the American government was, overall, far less successful than the British in winning American Indian allies during the Revolutionary War. Many American Indians perceived the settler population of the United States as being more interested in land acquisition than trade; their choice was, by and large, a rational one con-

sidering their circumstances. However, the unwillingness of most American Indian nations to support the United States in its fight for independence became a major factor as the United States formulated a course of action regarding Indian nations after the war.

Confederation Period, 1783–1789

In the aftermath of the Revolutionary War, the policy of the United States shifted away from one that treated the Indian nations as potential allies and partners in warfare to one that attempted to treat them as conquered subjects. The Treaty of Paris (1783) between the United States and Great Britain that ended the war awarded the United States sovereignty of the entire territory east of the Mississippi River, south of the Great Lakes, and north of Florida. No Indian nation was mentioned. Arguing that Britain's Indian allies had suffered the same defeat as had the British, agents of the United States claimed all of the Indian lands as conquered territory, (officially) allowing continued Indian residence on the land with congressional permission. The vast majority of American Indian nations rejected and resisted this doctrine, known as the "doctrine of conquest." Both conquest theory and the weakness of Congress under the Articles of Confederation severely inhibited U.S. Indian policy for the rest of the 1780s.

Congressional Indian policy during the Confederation period had its origin in the report of the Continental Congress's Committee on Indian Affairs issued on October 15, 1783. The committee's report laid out the goals of the Indian policy of the United States for the remainder of the decade. Led by delegate James Duane of New York, who had experience dealing with the Six Nations, the committee recommended Congress adopt an Indian policy that was practical but also disciplinary. Considering first the northern and middle Indian departments, the committee emphasized that the majority of the Indian nations in these regions had sided with the British and, they said it could be argued, deserved a harsh measure of punishment. But attempting to reduce or expel these Indian populations was both impractical (since the United States had no means to do so) and dangerous (since the Indians could simply reconstitute themselves under British protection in Canada and continue to threaten the United States). The committee thus advocated negotiation with the various Indian nations in order to get them to accept American sovereignty, agree on proper boundary lines between settler and Indian communities, and work out arrangements for trade to continue between the two groups. A different Committee on Indian Affairs for the Southern

Department put forward similar recommendations in May 1784 that were ultimately adopted in March 1785.

The approach that the Congressional committees put forward unraveled as the appointed commissioners attempted to negotiate treaties with the various Indian nations. Reasons for this varied. At the signing of the Treaty of Fort Stanwix with the Iroquois Six Nations in October 1784, the treaty commissioners explicitly referenced the notion of an American “right of conquest” to Indian land based on the Treaty of Paris. The leadership of the Six Nations present at the treaty negotiations were troubled by such claims, but were also concerned about rejecting a relationship with the Continental Congress outright and being subject only to the state of New York. Feeling threatened, they signed the treaty. In the Ohio Valley, however, most Indian leaders felt they could reject the conquest doctrine outright. Commissioners concluded the Treaty of Fort McIntosh with the Wyandots, Delawares, Ottawas, and Chippewas in January 1785 and the Treaty of the Mouth of the Great Miami with the Shawnees in January 1786, but these treaties proceeded with a minority of Indian nations’ leadership involved. Indian leaders balked at accepting conquest theory and were also dismayed that, despite its promises, the government could do almost nothing to stem the flood of settlers into the trans-Appalachian region. Tensions increased during the 1780s when settler communities came into contact with Indian ones.

Indian Policy of Federalist Administrations

The ratification of the federal Constitution in 1787-1788 and the beginning of the Washington administration and first federal Congress in 1789 inaugurated a new chapter in the relationship between the American Indian nations and the United States. The new Constitution placed the treaty-making power in the hands of the president and the Senate and explicitly vested these powers in the federal government. Although state governments would continue to play advisory roles in treaty-making with Indian nations, the states were clearly excluded from the enterprise. Both Congress and the Washington administration forwarded policies they hoped would reduce tensions on the frontier and convince Indian leaders that the new U.S. government had the power and will to enforce and uphold its treaty obligations, as well as to punish Indian nations that disobeyed or disagreed.

The principal architect of the new Indian policy was Washington’s first secretary of war, Henry Knox. Within months of taking office, in July 1789 Knox proposed to abandon conquest theory and treat the Indian nations as sov-

ereign states. Beyond attempting to bring a measure of good faith to the treaty-making process, Knox also saw that white settlers on the frontier (many of whom were squatters settling on Indian lands illegally) were often as much to blame, if not more so, as Indians for initiating conflict. The federal government needed to restrain white settlers and strictly regulate access to the Indian Country. On July 22, 1790, Congress passed the first Indian Trade and Intercourse Act. (The law would be renewed and modified several times into the 1830s.) Portions of this legislation were modified from the Land Ordinance of 1786, while others were innovations. The law articulated a sharp divide between settlers’ lands and Indian Country, and restricted access to Indian Country only to federal agents and licensed Indian traders. Murder and other crimes committed by whites against Indians would be punished by the federal government. In order to limit individuals, corporate bodies, or even the states from defrauding Indian nations of their lands, treaties and land sales would all have to be conducted under the authority of the federal government. Private lands sales and treaties negotiated by the states alone were declared illegal. Of course, while these were strong measures on paper, the infant federal government lacked the means for widespread enforcement, and abuses and violations occurred throughout the trans-Appalachian west. To remedy this, Knox embarked on a program of rebuilding the United States Army from the tiny force that remained after the Continental Army disbanded.

Knox’s policy of negotiation was put into effect almost immediately. The Washington administration chose to submit for the Senate’s ratification the Treaty of Fort Harmar, concluded in January 1789 with many of the same nations present at the Treaty of Fort McIntosh in 1785. Washington and Knox then made overtures to Alexander McGillivray, the leader of the Creek Indian nation. These negotiations culminated in McGillivray and a number of other Creek leaders journeying to the temporary federal capital city of New York in July and August 1790. The resulting Treaty of New York epitomized the Knox policy. The Creek Nation placed itself under the protection of the U.S. and opened itself up to American trade, while the federal government agreed to a firm boundary line that actually went against the desires of the state of Georgia, the Creeks’ near neighbor. Similarly, the government concluded the Treaty of Holston with the Cherokees in July 1791.

But where Washington and Knox negotiated civilly with the more populous and organized southern Indian nations, they adopted a more belligerent stance with the Indians of

the Ohio Valley. It was in this region that resistance to the United States—both its diplomatic overtures and its settler population—was most severe. Majorities of many nations refused to negotiate with the United States and actively fought against the Americans. An alliance of various Ohio Indians fighting under Miami war chief Little Turtle defeated small American forces under generals Josiah Harmer and Arthur St. Clair in 1790 and 1791, respectively. After two years of unsuccessful diplomatic overtures, Knox put his new, larger federal army in the field. Under the command of Anthony Wayne, the “Legion of the United States” marched deep into the Ohio country and defeated the Indian allies under the Shawnee chief Blue Jacket at the Battle of Fallen Timbers in August 1794. The following July at the Treaty of Greenville, the United States received a grant of most of the present-day state of Ohio from the defeated Indians.

Overall, the Washington administration’s Indian policies were pragmatic—limiting Indian-settler contact would limit potential conflict and thus prevent frontier warfare the new federal government could not afford during its early years. But the policies were also ideological in nature. Knox’s pursuit of Indian negotiation, restraint of frontier settlements, and rebuilding the federal army meshed with Treasury secretary Alexander Hamilton’s plans to consolidate the national debt, build a national bank, and use the federal government to promote the growth of the American financial and manufacturing sectors. Not only was the emerging Federalist Party building what historians have come to label a “fiscal-military state,” but their desire to remake the United States into a modern commercial nation with a mixed economy benefited greatly from slowing down territorial expansion. Knoxian Indian policy and Hamiltonian finance worked together to further the growth of the federal government along Federalist ideological lines.

At the same time, federal Indian policy was also informed by Enlightenment racial thinking. Conventional wisdom among eighteenth-century natural philosophers held that racial differences were not biological in nature, but rooted in a people’s environment. That is, climate and geography affected not only a people’s modes of subsistence, but its culture and mores as well, and these developments led to other choices that distinguished and defined one civilization from another. But these philosophers believed that behaviors, and the value systems that emerged from them, were not fixed and could be changed. Changing American Indian behavior and leading Natives on the path toward European “civilization” became a major goal behind U.S. Indian policy in the 1790s.

When Anglo-American policy makers looked at the American Indian nations, they saw groups of nomadic hunter-gatherers who ranged over hundreds of square miles, needlessly wasting land that could be put to productive use. They believed that if Indians could be taught to become farmers, like their white counterparts, they could fully embrace and participate in Euro-American civilization and would also willingly surrender the excess land they no longer needed. (Historians today recognize that the vast majority of the Indian peoples of the eastern woodlands were agriculturalists, but eighteenth-century whites either did not, or chose not to, see this.)

Beginning with George Washington’s annual message to Congress in 1791, the so-called plan of civilization became an essential part of U.S. Indian policy. Indian agents would attempt to introduce European agricultural technologies into Indian Country in order to transform Indian modes of subsistence and Indian culture. The “civilization” policy was an approach embraced by both the Federalists and their Jeffersonian Republican successors. The aforementioned treaties with the Creeks at New York and with the Cherokees at Holston included provisions that required the United States to supply farm implements and spinning wheels in the effort to persuade the tribes to embrace civilization.

While eighteenth-century racialism and the plan of civilization would provide common ground for Federalists and Republicans, by the time of the presidency of John Adams, concerns about Federalist Indian policy would ultimately fuel larger concerns the Jeffersonian Republicans had with Federalist policies. Growing populations in western states and territories such as Georgia, Kentucky, the old Northwest Territory, and the old Southwest Territory resulted in larger numbers of citizens and jurisdictions favoring expansionist policies. For example, the Treaty of Colerain (1796) with the Creek Nation provoked fears that the federal government was protecting the Creeks’ sovereignty at the expense of Georgia’s. The Jeffersonian Republicans wanted the federal government to favor the sovereignty of the states and the interests of frontier settlers. While he embraced the plan of civilization, the desire to protect and preserve the sovereignty of the states was a touchstone of the Indian policies of Thomas Jefferson’s first administration. In his first two years in office, Jefferson’s agents negotiated at least six different Indian treaties. The diplomatic crisis that led to the acquisition of the Louisiana territory transformed Jefferson’s Indian policy in several fundamental ways.

Early Jeffersonian Policy and the Effects of the Mississippi Crisis, 1802–1803

In 1802 rumors began to circulate in European capitals about the contents of the secret Treaty of San Ildefonso (1800) between Spain and France. Many speculated, correctly, that Spain had retroceded the territory of Louisiana to France. The prospect of French control of the mouth of the Mississippi River concerned the Jefferson administration, which had to consider how the United States would and could respond to such an event. Making these tensions even worse was the fact that in October 1802 the Spanish intendant at New Orleans suspended the right of American merchants to store their goods during the transshipment process (when goods were being transferred from river-going barges to ocean-going ships). The effective closure of the Mississippi River to American shipping provoked a diplomatic crisis. Jefferson and his cabinet engaged in multiple efforts to deal with the crisis between December 1802 and March 1803. Jefferson dispatched James Monroe as a special envoy to France to negotiate a purchase of New Orleans and the Floridas—what would ultimately become the Louisiana Purchase. He instructed Secretary of War Henry Dearborn to accelerate five planned Indian treaty negotiations, as he was worried that a French presence in Louisiana would lead to many Indian nations renewing their pre-1763 alliances with France. Finally, he asked Congress's permission for secret funds for an expedition into the Louisiana territory to ascertain its geography and the disposition of the Indian nations there. This became the Lewis and Clark Expedition.

In addition to increasing the pace of Indian negotiations, Jefferson's administration also changed its tenor in response to the Mississippi crisis. In private letters to Indian agents Benjamin Hawkins and William Henry Harrison in February 1803, Jefferson outlined why he wanted an increasing number of treaties with the Indians. Purchasing Indian lands around the major rivers of the trans-Appalachian west would ensure that the United States could maintain the rivers as lines of communication and commerce. But most importantly, with treaties came increased commerce with the United States, and with commerce came Indian dependency on American trade goods. Debt would soon follow, and, as he told Harrison, the United States could then offer to relieve debts in exchange for more and larger cessions of lands. And even though the Louisiana Purchase (ratified in October 1803) made the concerns of foreign powers influencing the American Indian nations of the Mississippi and Ohio valleys nearly moot, the aggressive acquisition of lands would continue.

Between the Mississippi crisis and the inauguration of James Madison, Jefferson's agents concluded an additional twenty-four Indian treaties, gaining cessions of territories in what would eventually be thirteen different states, including most of Missouri, Arkansas, Illinois, and Indiana. Not long after the acquisition of Louisiana, Jefferson began encouraging tribes to relocate into the territory. In hindsight, these efforts set the United States on a path toward a general removal of the eastern tribes.

See also *American Revolutionary War (1775–1783)*; *Army, U.S.*; *Civilization Program*; *Fallen Timbers (1794)*, *Battle of*; *Fort Harmar (1789)*, *Treaty of*; *Fort Stanwix (1768)*, *Treaty of*; *Great Britain, Indian Policy of*; *Greenville (1795)*, *Treaty of*; *Indian Country*; *Indian Policy of the Continental Congress*; *Jefferson, Thomas*; *Knox, Henry*; *Lewis and Clark Expedition*; *Louisiana Purchase*; *McGillivray, Alexander*; *Paris (1763)*, *Treaty of*; *Race and Racial Thinking*; *Removal*; *Trade and Intercourse Acts*; *Washington, George*.

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BIBLIOGRAPHY

- Calloway, Colin G. *The American Revolution in Indian Country: Crisis and Diversity in Native American Communities*. New York: Cambridge University Press, 1995.
- Downes, Randolph C. *Council Fires on the Upper Ohio: A Narrative of Indian Affairs in the Upper Ohio Valley until 1795*. Pittsburgh: University of Pittsburgh Press, 1940.
- Edling, Max. *A Revolution in Favor of Government: Origins of the U.S. Constitution and the Making of the American State*. New York: Oxford University Press, 2003.
- Elkins, Stanley, and Eric McKittrick. *The Age of Federalism: The Early American Republic, 1788–1800*. Oxford: Oxford University Press, 1993.
- Hinderaker, Eric. *Elusive Empires: Constructing Colonialism in the Ohio Valley, 1673–1800*. New York: Cambridge University Press, 1997.
- Hoffman, Ronald, and Peter J. Albert, eds. *Launching the "Extended Republic": the Federalist Era*. Charlottesville: University of Virginia Press, 1996.
- Horsman, Reginald. *Expansion and American Indian Policy, 1783–1812*. East Lansing: Michigan State University Press, 1967.
- Kohn, Richard H. *Eagle and Sword: The Federalists and the Creation of the Military Establishment in America, 1783–1802*. New York: Free Press, 1975.
- Lewis, James E., Jr. *The Louisiana Purchase: Jefferson's Noble Bargain?* Charlottesville: Thomas Jefferson Foundation, 2003.
- Prucha, Francis Paul. *American Indian Policy in the Formative Years: The Indian Trade and Intercourse Acts, 1790–1834*. Cambridge, Mass.: Harvard University Press, 1962.
- . *American Indian Treaties: History of a Political Anomaly*. Berkeley: University of California Press, 1994.
- Sheehan, Bernard W. *Seeds of Extinction: Jeffersonian Philanthropy and the American Indian*. Chapel Hill: University of North Carolina Press, 1973.
- Wallace, Anthony F. C. *Jefferson and the Indians: the Tragic Fate of the First Americans*. Cambridge, Mass.: Harvard University Press, 1999.



U.S. Indian Policy: Congress and the Executive, 1803–1848

During the administration of President Thomas Jefferson (1801–1809), the objective of federal Indian policy makers was, in the words of historian Robert Berkhofer in his 1979 work *The White Man's Indian*, “expansion with honor”—acquiring the Indian land demanded by white settlers without killing the Indians in the process. Jefferson and his subordinates believed they could attain this difficult goal by continuing their Federalist predecessors’ “civilization” program. If, Jefferson reasoned, the U.S. government could persuade the trans-Appalachian Indians to adopt commercial agriculture, stock raising, spinning, and weaving, Native American families could sustain themselves on far less land than they had previously needed for hunting. Federal commissioners could then persuade the Indians to sell their surplus lands for money that they could invest in farm equipment and spinning wheels. Eventually, the U.S. government could incorporate the Woodland Indians into American society as citizens, thus eliminating them as political rivals and demonstrating the superiority of American civilization to the French and British, neither of whom had been able to effect such a large-scale conversion of Indians.

In practice, though, the federal government’s commitment to Indian civilization remained limited during the early nineteenth century. In 1802 Congress renewed a \$15,000 annual appropriation to supply interested Indians with gifts such as plows, looms, and livestock to “improve” their lives. The executive branch gave Protestant missionaries small grants to open schools for Cherokee children and paid for the upkeep of a Catholic priest and teacher for the Kaskaskias. In speeches to Native American audiences, Jefferson and his Indian agents urged listeners to abandon their old lifeways and adopt agriculture, English literacy, and the ownership of private property. These efforts comprised the full extent of federal officials’ investment in the civilization program before the War of 1812 (1812–1814).

The Jeffersonians demonstrated the limits of their commitment to Indian civilization by enlarging another program that exploited Native Americans’ continued reliance on commercial hunting: the Indian trading-factory system. The factories were fur-trading posts, each constructed, financed,

and administered by the U.S. government, where salaried federal trading agents bought Indian hunters’ furs at retail prices and sold them manufactured goods at cost. Congress originally created the factories to drive foreign (principally British) fur traders out of business and thereby lessen foreign influence over the Indians. President Jefferson recognized that the factories could serve another useful purpose: through the extension of credit they could draw Native Americans into debt, which the government could then persuade their chiefs to discharge by selling land. During the first decade of the nineteenth century, the War Department expanded the number of factories from two to twelve, while Congress increased the factories’ capital from \$150,000 to \$300,000, raised the factories’ salary pool from \$8,000 to \$15,000, and created the office of superintendent of Indian trade to oversee the system. As Jefferson had hoped, treaty commissioners used factory debts to leverage land cessions from the Creeks (in 1802) and the Cherokees (1806–1807).

Expansionism and War

The acquisition of Indian land for the American farming population was the Jeffersonian Republicans’ chief policy objective. Between 1801 and 1810, federal officials negotiated thirty treaties with Native American nations and procured from them over 200,000 square miles of territory, at a cost of one to two cents per acre. The administration also sought to build roads linking Tennessee to Georgia; Natchez, Mississippi; and Mobile, Alabama, and needed easements from the southeastern Indian nations. In addition, during the short-lived French attempt to re-occupy Louisiana (1800–1803), President Jefferson began a concerted effort to purchase Indian land titles on the east bank of the Mississippi River to create a buffer zone of white settlements between the eastern United States and French Louisiana. Finally, in 1802 federal commissioners had obligated the United States to extinguish all Indian land claims in the state of Georgia in return for Georgia’s cession of its western lands (present-day Alabama and Mississippi) to the Union.

Therefore, in the early nineteenth century, federal commissioners repeatedly pressured the chiefs of the four largest

southeastern Indian nations for land and highway concessions. In 1802 and 1805, U.S. officials agreed to pay the Creek Indians approximately \$240,000 over ten years for all the lands between the Oconee and Ocmulgee rivers in Georgia. In 1805 the Chickasaws agreed to cede their claims to central Tennessee, influenced in part by bribes paid to tribal leaders, while in that same year the Choctaws ceded the southwestern corner of Mississippi and the southeastern corner of Alabama in return for the settlement of debts they owed to the fur-trading company of Forbes & Leslie. The Cherokees sold their claims to central Tennessee in a series of treaties and conventions, again accompanied by bribes, between 1805 and 1807.

In the Northwest Territory, Indiana territorial governor William Henry Harrison mounted an equally spirited campaign to liquidate the Great Lakes Indians' land claims. Between 1803 and 1809 he negotiated fifteen treaties with the Delawares, Kickapoos, Miamis, and other northern Woodland Indian nations, cheating or bribing their chiefs into selling southern Indiana, most of present-day Illinois, and parts of the future states of Wisconsin and Missouri to the United States. Other federal officials concurrently negotiated land cessions in northern Ohio and eastern Michigan from the Ojibwas and Wyandots (1805–1808).

Jeffersonian officials pushed the Woodland Indians so steadily and hard for land cessions that some finally pushed back. In 1807 Cherokee nationalists assassinated Doublehead (or Chuquilatague), an influential chief who had taken a leading role in the recent land cessions. At the same time the Shawnee prophet Tenskwatawa and his brother Tecumseh began organizing a new pan-Indian resistance movement in the Northwest, calling on their followers to give up the artifacts of white American civilization and resist future land sales to the United States. In 1811 Harrison used several skirmishes between Indians in the Northwest and white Americans to justify attacking Tecumseh's headquarters at Prophetstown. After defeating a small Indian force at Tippecanoe Creek (November 6, 1811), Harrison and his territorial militia destroyed Prophetstown, beginning a border war that merged with the following year's Anglo-American conflict.

During the War of 1812, over fifteen thousand Woodland and Plains Indians aligned themselves with Britain, whom they viewed as a reliable ally against American expansionism. These Native allies of the Crown included five thousand Sioux; several thousand Canadian Iroquois and Ojibwas; the members of Tecumseh and Tenskwatawa's Indian confeder-

ation; and four thousand Creek nativist insurgents known as the Red Sticks, whom Tecumseh recruited or inspired. In the first year of the war, Indian forces captured or destroyed several American frontier posts and settlements, including Chicago, Michilimackinac, and Fort Mims. They also destroyed or forced the evacuation of half the federal government's Indian trading factories. However, in 1813–1814 American regulars and militia, aided by 3,800 U.S.-allied Native American fighters—some from communities in the Northwest whose “accommodationist” leaders opposed Tecumseh's pan-Indian movement, others from southeastern Indian nations who were old military rivals of the Creeks—conducted a devastating counteroffensive. American volunteers under William Harrison and Isaac Shelby decisively defeated Tecumseh's confederates at the Battle of the Thames (Oct. 5, 1813), while U.S. troops under Andrew Jackson destroyed Red Stick Creek forces at the Battle of Horseshoe Bend (March 27, 1814).

From Civilization to Removal

After the end of the war, federal policy makers attempted to revive the Jeffersonian civilization policy while continuing to press the Woodland Indians for new land cessions. In 1819 Congress authorized regular federal funding for Indian education through the Indian Civilization Act, which appropriated \$10,000 yearly for the schooling of Native American children. The president and Senate also included education annuities in several new treaties signed with specific Indian nations, which collectively amounted to an additional \$35,000 per year. By 1830 philanthropists and missionaries had used these funds to open fifty-two day and boarding schools that enrolled over 1,500 Indian pupils.

However, concurrent political and economic changes were undermining federal support for the civilization policy and convincing a growing number of officials that the removal of the Woodland Indians from the eastern United States was both desirable and inevitable. The postwar growth of steamboat transportation, a boom in agricultural prices, and the expansion of cotton plantation agriculture and slavery into the lower southern states increased the potential value of Indian lands to white speculators and farmers. Though the U.S. government negotiated over one hundred Indian treaties between 1814 and 1829, and secured thereby the cession of more than 70 million acres of Native American land, American settlers' appetite for that land only increased. Moreover, the growth of western American settlements after the war led to the admission of five new trans-

Appalachian states to the Union, and their representatives in Congress almost uniformly opposed the civilization policy and favored the permanent separation of whites and Indians. The westerners scored their first policy victory in 1822, when Senator Thomas Hart Benton of Missouri convinced Congress to close the U.S.–Indian trading factories, which westerners considered expensive and wasteful.

Finally, support for the “civilization” of Native Americans waned even among former advocates of the policy. The decision of so many Indians to take Britain’s side in the War of 1812, and the cultural conservatism of most Woodland Indians—who sometimes adopted weaving or stock-raising but would not give up their languages or customs—suggested that the United States could not hope to assimilate its Native American population. Some officials, influenced by the new ideology of “scientific racism,” were coming to believe that such behavior was the result of innate and permanent racial differences, and that Indians might therefore be inherently unfit for civilized life. Such a view was espoused, or at least suggested, by Lewis Cass, the governor of Michigan Territory, and by Thomas McKenney, the last superintendent of Indian trade and the first superintendent of Indian affairs (1824–1830). By the 1820s McKenney and other philanthropists argued that proximity to white American society was actually harmful to Native Americans, leading only to alcoholism and other unhealthy conditions, and that the eastern Indians must either emigrate across the Mississippi River or become extinct.

Indian removal was by then an old idea, though few American policy makers had ever considered it a wholly practical one. At the end of the eighteenth century, some Woodland Indians had begun voluntarily migrating west of the Mississippi River, seeking better commercial hunting opportunities or refuge from belligerent white settlers. By 1828 nearly fourteen thousand Cherokees, Kickapoos, Delawares, Shawnees, and other eastern Indians had settled in Missouri and the Arkansas Valley. During his presidency Thomas Jefferson had proposed that all of the Woodland Indians follow this example and voluntarily move to a trans-Mississippi reservation, and in the mid-1820s President James Monroe and President John Quincy Adams recommended that Congress pass a formal act to encourage and fund Indian emigration. Several postwar treaties offered the southeastern Indians money and land if they moved west of the Mississippi River, though only a few thousand accepted the offer.

Full-scale removal became a reality due to two specific political developments. First, the southeastern Indian nations

began to assert their autonomy in ways that directly interfered with federal land acquisition and state sovereignty. In 1825 the Creek national council annulled a ten-million-acre land cession to the United States and executed William McIntosh, the chief who had arranged the sale. The incident produced a confrontation between the Creeks, the state of Georgia (on whose behalf federal commissioners had made the purchase), and the U.S. government that was resolved only by a new federal treaty with the Creeks (January 24, 1826) which paid them over \$200,000 for their remaining lands in Georgia. Eighteen months later, on July 26, 1827, the Cherokees issued their own political challenge: the national council set forth a tribal constitution and proclaimed the Cherokees a sovereign nation. Georgia responded by outlawing the Cherokee national government; extending its laws into the Cherokees’ homeland; and incorporating Cherokee lands into the state, even though this violated federal treaties and laws.

The other development was the election in 1828 of Andrew Jackson, a western military leader and politician, to the presidency (1829–1837). Jackson regarded the continued residence of independent Indians in the eastern United States as a threat to American national security and a hindrance to economic development, and he made removal the centerpiece of his Indian policy. In his first annual message to Congress, Jackson proposed an exchange of Indian lands in the east for reservations in the trans-Mississippi West, and shortly thereafter Jackson’s supporters in Congress, joined by a united Georgia delegation, introduced the Indian Removal Act. The bill authorized the president to create a western Indian territory (eventually comprising the future states of Kansas and Oklahoma) and to negotiate treaties of removal and land exchange with the eastern Woodland Indian nations. \$500,000 was appropriated for expenses. Protestant missionary groups and members of the National Republican Party mounted fierce opposition to the bill, the former because they believed removal would endanger their own evangelization efforts, the latter because they believed it would endanger the old “civilization” program or because they simply opposed Jackson. Despite its many opponents, however, the Indian Removal Act narrowly passed both houses of Congress and became law on May 26, 1830.

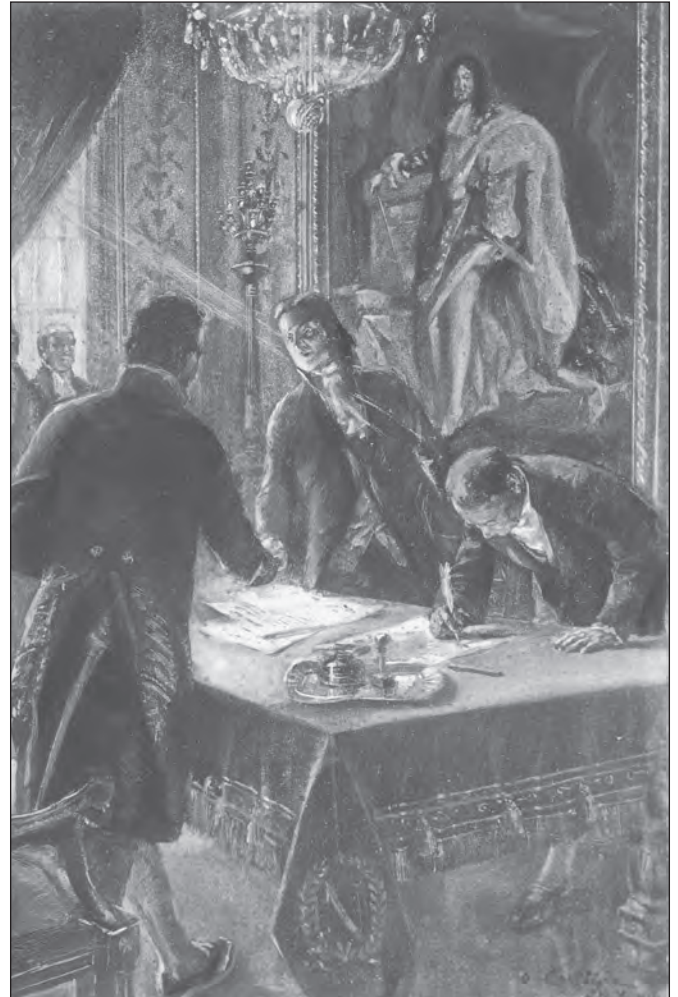
Removal, Resistance, and Reorganization

From the federal government’s standpoint, Indian removal proved a massive and expensive public enterprise. During Andrew Jackson’s presidency, the United States negotiated

seventy Indian treaties and purchased 100 million acres of Native American land, for which it paid \$68 million and swapped 32 million acres of reservation land in Indian Territory. It then relocated forty-six thousand Indian men, women, and children to reservations west of the Mississippi River. During the late 1830s and 1840s, Jackson's successors removed approximately another fifty thousand Woodland Indians from the eastern United States.

These statistics mask the great resistance that federal officials encountered and the enormous suffering they inflicted upon Native peoples in the course of executing the removal policy. The Choctaws, for instance, while voluntarily agreeing to remove in 1830, lost between two thousand and four thousand people to bad weather conditions and cholera during their emigration to Indian Territory. The Creeks agreed to sign a removal treaty in 1832 after commissioners gave them the option of staying in the east on individual land allotments, but Creek insurgents subsequently attacked white speculators who were defrauding Indian families of their allotments. In 1836 the U.S. Army forcibly expelled the Creek Nation from Alabama. As many as ten thousand Creeks died in the fighting or on the trail to the west. Fighting was also present during the U.S. government's efforts to remove the Seminoles from Florida. Seminole warriors denounced their nation's 1832–1833 removal treaties as frauds, and on December 28, 1835, they killed their agent and several U.S. soldiers. The war that followed (1835–1842) cost the United States \$20 million and resulted in the deaths of 1,500 American soldiers and one thousand Seminoles.

The most famous case of resistance to Indian removal began in 1830, when officials of the Cherokee Nation decided to fight in federal court against the expulsion of their people. Retaining former attorney general William Wirt as their lawyer, the Cherokees brought three cases in the U.S. Supreme Court against the state of Georgia, which had passed a series of laws aimed at destroying the Cherokees' autonomy. In the third case, *Worcester v. Georgia* (March 3, 1832), the Court ruled in the Cherokees' favor, declaring that federal laws and treaties shielded the nation from Georgia's jurisdiction. The Court also held that the Cherokees retained significant powers of national sovereignty. However, the ruling contained no provision for enforcement, and President Jackson was in any case unwilling to undermine his own removal policy. Instead, federal commissioners negotiated a removal treaty in December 1835 with a minority of Cherokee leaders, and in 1838–1839 federal



Under Thomas Jefferson's administration, U.S. expansion rapidly increased with the Louisiana Purchase and the subsequent policy of removal of Native Americans.

soldiers rounded up the Cherokees and interned them in camps. The Cherokees then migrated to the Indian Territory over the course of a brutally cold winter; about 4,500 Cherokees died as a consequence.

The removal of the northern Woodland Indians followed a dynamic similar to that of southern Indian removal. Federal commissioners extinguished virtually all Native American land claims in the Northwest Territory by 1848 and dispatched the former Indian residents to reservations in Iowa and present-day Kansas. Emigrant casualties were often very high—50 percent of the Winnebagoes (now Ho-Chunks), for instance, died during their journey to Iowa—and many groups chose instead to resist removal. The Senecas were able to delay Senate approval of their 1838 removal treaty, owing to allegations that the treaty was the product of bribery and

fraud, and they finally negotiated a new agreement in May 1842 which allowed them to keep two of their reservations in New York. Over 2,500 Potawatomis and several hundred Ojibwas and Ottawas fled to Canada rather than migrate to Indian Territory. And about two thousand Sauk and Fox Indians, led by Black Hawk, returned to their former homeland in Illinois, igniting a war with the U.S. government. Federal troops chased the “intruders” into Wisconsin Territory and cornered them at the Battle of Bad Axe (August 1, 1832), where American troops and gunboats killed at least 250 men, women, and children.

Removal also led to armed conflict between Natives in the trans-Mississippi West, as the removed Woodland Indians fought with the southern Plains Indians on whose lands they settled. The Osages fought a costly war with Cherokee immigrants (1817–1821), in which both sides stole horses and killed one another’s hunters, and in which the Cherokees burned Osage towns. In the early 1830s, Osage warriors raided the farms of removed Choctaws and Chickasaws in Indian Territory, while in the 1840s Delaware, Kickapoo, and Shawnee emigrants whom the Republic of Texas had expelled from its territory used the Choctaws’ and Chickasaws’ reservations as bases for retaliatory raids into Texas.

By 1837, however, the leaders of the removed southeastern Indian nations and their Comanche and Osage neighbors had begun (with the help of U.S. government commissioners) to organize multitribal councils to resolve such conflicts and to sign peace treaties and negotiate boundaries with one another.

As the federal government consolidated the eastern Indian nations in Indian Territory, Congress took steps to ensure that the uprooted Woodland Indians remained isolated and dependent on the U.S. government. In 1834 a new Trade and Intercourse Act barred all whites except traders, missionaries, and officials from Indian Territory. A subsequent 1847 law strengthened the federal ban on liquor sales to Indians, and, more significantly, gave the president discretion to divert tribal annuities from chiefs to specified individuals or welfare projects, thus undermining the authority of Native American leaders. Changes in the federal bureaucracy indicated the removed Indians’ new status as separate and dependent peoples: in 1834 Congress created a separate Indian Office within the War Department, and in 1849 Congress moved that office to the new Interior Department, signaling that Indians were no longer primarily subjects of military and diplomatic policy. Finally, while

missionaries and Indian agents endeavored to restart the old civilization policy in Indian Territory, many of the displaced Indians there were reluctant to take up farming, given their justifiable uncertainty about land tenure. Many also hesitated to place their children in mission schools, as some missionaries had supported removal. In 1842 there were only thirty-seven schools and 1,300 pupils in Indian Territory, figures lower than their 1830 counterparts. Commercial agriculture and English literacy grew only gradually among the inhabitants of Indian Territory, who understood quite well that the age of “expansion with honor”—of eventual Indian assimilation—was over, and a new era of conquest, isolation, and dependency had begun.

The Far West

The U.S. government most clearly displayed its renewed dedication to expansion and conquest in the region west of the Louisiana Purchase, where President James Polk (1845–1849) and his administration extended American jurisdiction over more than 800,000 square miles of territory and several hundred thousand Native Americans. In the Pacific Northwest, the United States had maintained a claim to the Oregon Country (the region bordered by the Rocky Mountains, Alaska, and California) since 1792. The federal government solidified this claim with the Lewis and Clark expedition, whose members spent the winter of 1805–1806 at Fort Clatsop in present-day Oregon, and through treaties with two of the region’s European claimants, Spain (1819) and Russia (1824). The United States then jointly administered the region with Great Britain for two decades. In the 1840s American farmers began to cross the continent on the Oregon Trail to settle on the Columbia and Willamette rivers, and they pressured the U.S. government formally to annex the Oregon Country. On June 15, 1846, the Polk administration signed a treaty with Britain dividing the region at the 49th parallel. Shortly thereafter, on November 29, 1847, Cayuse and Umatilla warriors killed fifteen white Americans, including missionaries Marcus and Narcissa Whitman, at Waiilatpu in present-day Washington. The so-called Whitman Massacre ignited a seven-year-long war between settlers and the Cayuse Nation (1848–1855) and induced Congress to create a territorial government for Oregon and to declare its authority to regulate Indian affairs in the region.

Meanwhile, in the southwest, Congress had in 1845 annexed the independent Republic of Texas, which helped lead to the outbreak of war between the United States and

Mexico on May 13, 1846. During the U.S.–Mexican War (1846–1848), American troops occupied New Mexico and California, and the Mexican government formally ceded these provinces to the United States in the Treaty of Guadalupe Hidalgo (February 2, 1848). By the end of that year, the American “empire of liberty” extended from the Atlantic Ocean to the Pacific, and at least half a million North American Indians resided, for better or worse, within the jurisdictional boundaries of the United States.

See also Adams, John Quincy; *Black Hawk*; *Black Hawk War*; Cass, Lewis; *Cayuse War*; Cherokee Nation v. Georgia; *Civilization Program*; *Compact of 1802*; *Creek Civil War*; *Education: Boarding Schools*; *Factory System*; *Guadalupe Hidalgo, Treaty of*; Harrison, William Henry; *Indian Removal Act (1830)*; *Indian Territory*; Jackson, Andrew; Jefferson, Thomas; *Lewis and Clark Expedition*; *Louisiana Purchase*; McIntosh, William; McKenney, Thomas L.; Monroe, James; *New Echota, Treaty of*; *Race and Racial Thinking*; *Removal*; *Second Creek War*; *Second Seminole War*; *Tecumseh*; *Tenskwatawa*; *Texas*; *Trade and Intercourse Acts*; *Trail of Tears*; *U.S.–Mexican War*; *War of 1812*; *Westward Migration*; *Whitman Massacre*; Wirt, William; *Worcester v. Georgia*.

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BIBLIOGRAPHY

- Berkhofer, Robert, Jr. *The White Man's Indian: Images of the American Indian from Columbus to the Present*. New York: Vintage, 1979.
- Garrison, Tim Alan. *The Legal Ideology of Indian Removal: The Southern Judiciary and the Sovereignty of Native American Nations*. Athens: University of Georgia Press, 2002.
- Green, Michael D. *The Politics of Indian Removal: Creek Government and Society in Crisis*. Lincoln: University of Nebraska Press, 1982.
- Hickey, Donald. *Don't Give up the Ship! Myths of the War of 1812*. Urbana and Chicago: University of Illinois Press, 2006.
- Horsman, Reginald. *Expansion and American Indian Policy, 1783–1812*. Norman: University of Oklahoma Press, 1992.
- Kappler, Charles, ed. *Indian Affairs, Laws, and Treaties*. 7 vols. Washington, D.C.: U.S. Government Printing Office, 1904.
- La Vere, David. *Contrary Neighbors: Southern Plains and Removed Indians in Indian Territory*. Norman: University of Oklahoma Press, 2000.
- Norgren, Jill. *The Cherokee Cases: The Confrontation of Law and Politics*. New York: McGraw-Hill, 1996.
- Prucha, Francis Paul. *American Indian Treaties: The History of a Political Anomaly*. Berkeley and Los Angeles: University of California Press, 1994.
- . *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Satz, Ronald. *American Indian Policy in the Jacksonian Era*. Lincoln: University of Nebraska Press, 1975.
- Sheehan, Bernard. *Seeds of Extinction: Jeffersonian Philanthropy and the American Indian*. Chapel Hill: University of North Carolina Press, 1973.
- Unrau, William E. *The Rise and Fall of Indian Country, 1825–1855*. Lawrence: University Press of Kansas, 2007.
- Wallace, Anthony F. C. *Jefferson and the Indians: The Tragic Fate of the First Americans*. Cambridge, Mass.: Harvard University Press, 1999.
- . *The Long, Bitter Trail: Andrew Jackson and the Indians*. New York: Hill and Wang, 1993.



U.S. Indian Policy: Congress and the Executive, 1845-1877

The Indian policy enacted by the United States government between 1845 and 1877 had disastrous effects on the country's Indian nations. Prior to this period, the Cherokee relocation of 1838 had served as a turning point in the era of the Indian removal policy, which sought to move Indian nations out of the way and allocate their lands for white settlement. This policy ended in the 1840s with the relocation of most Indian nations from the white settled lands east of the Mississippi River and in Iowa, Missouri, Kansas, Nebraska, and other trans-Mississippi states. The removal policy included the acquisition of Indian lands by treaty for white settlement, and these treaties continued as whites moved west. The United States negotiated nine treaties for Indian lands in western Kansas alone from 1854-1855.

The U.S.-Mexican War (1846-1848), the Gold Rush, the Civil War (1861-1865), and the construction of the transcontinental railroad accelerated the westward movement of white settlers. This left the Plains, southwestern, and west coast tribes with the choice of fighting for their land and lives or surrendering, relocating themselves to small reservations, and facing the same fate as the removed Indians from the East. The period saw increasing levels of warfare, including several major Sioux uprisings, the Navajo War (1848-1868), the Modoc War (1872-1873), the Nez Perce War (1877), and others throughout the West. The California Gold Rush led to outright genocide against California's small Indian tribes, as Indians in the way of prospectors were systematically shot or driven from their homes and fields into the mountains, where they often starved or froze. The Sand Creek Massacre committed by Colorado militia against peaceful Cheyennes in November 1864 was the result of heightened settler racism against Indians. That same year, the Navajos and Apaches were forcibly removed to Bosque Redondo, a wasteland in northeastern New Mexico. Terrible actions such as those committed at Sand Creek produced outrage among the American public and led to federal reassessments of existing Indian policy.

The end of the Civil War for the first time saw a strong, centralized American nation with a large and trained mili-

tary capable of pacifying a frontier needed for new farms for its growing immigrant population. The United States extended the imperialist ideology of "union": a great American nation held together, if necessary, by military force on its borders.

The Indian System in the 1840s and 1850s

The policy of forced removal left millions of acres of prime farmland available, some of which extended out to the Plains. Once the removal of the eastern tribes was complete, the Office of Indian Affairs transferred from the War Department to the Interior Department in 1849. Resettled Indians, now temporarily living beyond white settlements in Nebraska, Kansas, and the Indian Territory, became the responsibility of Indian agents, and the Indian reservations became centers of political corruption rather than safe havens.

The U.S.-Mexican War gained the United States one-third of Mexico and opened these lands for settlement. This required the creation of new Indian agencies in these territories, and these agencies had to deal with the western tribes very differently from the way government had been used to dealing with the eastern tribes. Many of the southwest Indians, for example, had long histories of political relations with Mexican and Spanish authorities, of which the United States was ignorant. Similarly, the final settlement with Great Britain over the ownership of the Pacific Northwest in 1846 necessitated the creation of new Indian agencies in Oregon and Washington.

Prior to the election of Abraham Lincoln in 1860, a series of presidents, beginning with James K. Polk (1845-1849) and ending with James Buchanan (1857-1861), ineffectively tried to hold the United States together against the increasing division between the northern and southern states over the issue of slavery. The nation effectively abandoned any pretense of an Indian policy and left the reservation Indians at the mercy of greedy and corrupt Indian agents, most of whom had been granted their positions as reward for service to the party in power. Congress, preoccupied with the slavery question and content with the status quo, raised no objections to this so-called Indian system. As long as the

removed Indians remained peaceful and under the control of Indian agents, they were of no political concern. The treaty process, with agreements negotiated by the president and approved by the Senate, fed the Indian system, providing both money to the Indian tribes (to be administered by the dishonest Indian agents) and land for white settlement.

The Indian system penetrated throughout the federal government, providing illegally obtained money to officials at many levels. By the Lincoln years, thirteen large Indian superintendencies and nearly three dozen Indian agencies operated under the Office of Indian Affairs of the Department of the Interior. Thousands of jobs were available to those favored by the party in power. Federal agents administered millions of dollars in Indian contracts. Traders had exclusive licenses to trade with Indians on their reservations—and often used this privilege to cheat the Indians. The Senate bought land from starving Indians, and various land offices then dispersed these lands to white settlers. State and territorial governments also frequently sought to take advantage of the desperate Indians, and the U.S. Army was involved at some locations.

Lincoln and the Indians

The election of Abraham Lincoln as president had no immediate impact on the system. Lincoln took office as slaveholding states seceded from the Union, which made Indian policy a low priority in the early days of his administration. Lincoln, moreover, was a “westerner” who had, as a captain in the Black Hawk War of 1832, fought the Sac and Fox Indians in order to clear the state of Illinois (and Iowa and Wisconsin) for white settlement. Indian policy became important to Lincoln, however, due to its effects on the Civil War.

Just as the Civil War divided the United States, it also divided the Indian nations. The policy of Indian removal, the acquisition of Indian lands by forced treaty, and the corruption of the Indian system left many Indians with little affection for the federal government. The Confederacy, with varying degrees of success, attempted to exploit this situation and promised a better Indian policy, with more recognition of the tribes and less governmental interference in their lives. Given the strategic importance of the West in the Civil War, the Indian tribes, especially in Oklahoma and Kansas, might have been important allies of the South. In many instances, however, the attempts to obtain their assistance failed. Nevertheless, many Indians did fight for the South. After the war, these tribes were forced to sign new reconstruction

treaties in which they gave up most of their lands in what is now central and western Oklahoma, agreed to abolish slavery, and admitted thousands of blacks living among them as members of their respective tribes.

Another concern arose for the federal government. In the fall of 1862, the Santee (Dakota) Sioux of Minnesota rose in rebellion in the heartland of the Midwest, attacking farmers and villages while many settlers were off fighting in the Civil War. The grievances of the Dakotas stemmed directly from the corruption of the Indian system. They had lost their lands in a treaty process and been forced onto small reservations without adequate food. Local whites stole their horses and timber. Indian agents stole their food. The government ignored pleas for intervention. Fully aware that the United States was involved in the war, the Santee took the opportunity to attack. Lincoln then faced an Indian war in the West at the same time he faced a civil war with the South.

The United States hastily moved troops to Minnesota and crushed the uprising. The government removed the tribe to the Dakotas. Moreover, in order to set an example, the government held military trials for the warriors. Over three hundred were sentenced to hang, but Lincoln commuted most of the death sentences. He did, however, confirm the death sentences of thirty-eight of the warriors, and they were hanged in a public execution in Mankato on December 26, 1862. This was the largest mass execution in American history.

Other Indian tribes in Minnesota suffered during the war as well. Settlers used the war as an excuse to demand more Indian land in the state, and two thousand Winnebagos (Ho-Chunks) were removed. These removals, carried out in harsh climactic conditions, led to the deaths of hundreds of Indians.

The events in Minnesota and the Sand Creek massacre prompted public demands for investigation of the United States's Indian policy. These events set the stage for a general investigation by a joint congressional committee led by James R. Doolittle. The committee traveled across the West, interrogating agents and military commanders about conditions on reservations, alternatives to reservations, school and mission activities, the value of annuities, and other issues pertinent to Indian relations. The work by the Doolittle Committee prompted other investigations, and a number of public-minded American citizens became interested in the welfare of Native Americans. Lincoln's general, Ulysses S. Grant, decided to take drastic measures to reform U.S. Indian policy during his administration.

Ulysses S. Grant, His Army, and the "Peace Policy"

General Grant, president from 1869 to 1877, inherited a unified American nation and a huge army. No American at that time knew more about warfare than Grant, and he was determined to put a swift end to the Indian Wars. His former Union army was firmly under the control of two of his favorite generals, William Tecumseh Sherman and Phil Sheridan; greatly enlarged in numbers by the Civil War; and easily able to mobilize and fight anywhere in the United States. At the time he took office, Grant, like most other politicians of the era, favored a policy of gradual assimilation of the Indians, centered on the existing reservation system. Thus, his government used a "carrot and stick" approach. Indians settled peacefully on their reservations would see improved conditions, but Indians who resisted were to be swiftly defeated.

The construction of the first transcontinental railroad, which reached California in 1868, brought conflict with Plains Indians to a head. The 1860s and 1870s saw some of the most aggressive Indian warfare in U.S. history, reaching a peak with the destruction of George A. Custer's Seventh Cavalry at the hands of Cheyenne and Sioux warriors at the Battle of Little Bighorn in 1876.

Grant's policy toward Indians came from his frustration with the Indian system as it had operated under Lincoln and his predecessors. Since the whole system was hopelessly corrupt, a new policy had to be created that put a different set of institutions in control of the Indian reservations. Those who wanted to reform Indian policy turned to the churches. The government divided Indian reservations among different Christian denominations, with each denomination responsible for administering a fair and just Indian policy on those reservations in its care. The idea was that Christianity would take a leading role in the assimilation of Indians. Advocates pointed out that the churches did not have a history of corruption comparable to that of the Indian system, and that religious officials were seen (in their own eyes, at least) as more kindly and nurturing than government bureaucrats. The Office of Indian Affairs, in turn, was also to be managed more humanely and honestly.

The Office of Indian Affairs had existed in the Interior Department since 1849, but after the end of Grant's tenure as president, it grew into a large bureaucracy. While U.S. presidents occasionally took notice of Indian policy, it was not generally a central focus of their day-to-day concerns. In

its early days, it was mostly important only that the office was staffed with loyal officeholders and operated without causing any embarrassment to the party in power.

By the 1870s an Indian agent appointed by the Office of Indian Affairs had enormous power and could spend great sums of money. Each reservation retained a number of government employees and controlled significant resources. Indian agents appointed agency Indian chiefs; the agents promoted and rewarded "good" Indians (who supported the Indian agent) and lodged "bad" Indians in dingy reservation jails. Schools were established, both on reservations and in distant towns, and Indian students were forced to use the English language.

An Indian Peace Commission was appointed in 1867 and spent almost a year in the West, attempting to negotiate with the western tribes. With the Sioux wars raging, this was not possible, but the commission did issue a report largely blaming western whites for these wars. Directly addressing a debate to move the Office of Indian Affairs back to the War Department, the commission clearly stated that the underlying issue was whether the intent was to control completely the tribes or to work to assimilate them peacefully, while clearly urging the latter. The legacy of Grant's "peace policy" ultimately was the same forced assimilation process that the Office of Indian Affairs had begun. Corruption, although never entirely absent, might have lessened when the churches took control of the reservations, but it was not possible politically to entrust a governmental function to religious organizations. Consequently, the Department of the Interior regained control of the Indian reservations by the mid-1870s.

The U.S. Army as an Instrument of Executive Policy

The history of U.S. Indian policy was a violent one, and Indian wars were central to its various stages of development. While each Indian war was different, the common element uniting them was the willingness of the U.S. government, primarily the executive branch, to use military force to subdue any Indian resistance to the assimilation policy. Due to this, Indian nations had no way to assert their traditional laws or cultural practices without risking retaliation by the U.S. Army.

While the level of violence occurring rose and fell over time, it was in the post-Civil War period that army attacks on Indians were particularly important as an instrument of Indian policy. For Indians, it was clear that American forces were increasingly imprisoning them on their reservations,



President James Buchanan meets with members of the Pawnee and Ponca tribes. U.S. Indian policy under Buchanan and several of his predecessors relied on cronyism and corruption, with little concern for the Indians.

even though the army had no legal authority to do this. For the president and the executive branch, the very survival of the reservation system depended on military force to back up the power of individual Indian agents. In addition, the U.S. Army itself had interests as a branch of government. Its major focus during this period of international peace—which lasted until the Spanish-American War of 1898—was the pacification of the Indian nations. Budgets, recruitment, and promotions depended on the success or failure of this goal.

Dozens of wars defined the decades of 1860 through 1880, involving the Apaches, Navajos, Sioux, Cheyennes, Nez Percés, Modocs, Utes, and others. These wars peaked with the seizure of the Black Hills by gold miners, in violation of the Treaty of Laramie (1868). In 1876 the army moved against the Sioux, who were determined to fight to protect their ancestral lands. Lt. Colonel Custer, leading one column of troops in a concerted attack on the Sioux and Cheyennes, apparently believed he could capture the Democratic nomination for president with a daring attack on the Indians, mostly women and children, camped along the Little Bighorn River. He disregarded orders and led his troops into one of the few defeats of U.S. forces in the Indian wars. Custer was killed and his force destroyed in the battle.

While Indians had occasional victories, their numbers were small and they were heavily outnumbered by American

troops. In addition, increased settlement and military action destroyed the natural ecosystems that sustained the Great Plains hunts, killing off the buffalo and denying the tribes their sustenance.

Congress and the End of Treaty Making

After a final round of treaty making with Indian nations, the U.S. House of Representatives ended the two-hundred-year-old British and American policy in 1871 by declining to continue funding the treaty process. This was one of the most significant congressional actions in the history of U.S. Indian policy. The reason for this shift in policy reflected both petty politics as well as longstanding dissatisfaction with the treaty system. The Constitution leaves treaty-making power to the president, subject to ratification by the U.S. Senate. The House of Representatives is left out of the process, depriving congressional representatives of their share of the spoils of the system, as well as of any direct role in treaties of particular concern to individual congressional representatives. In terms of policy, the treaty system, as recognized universally in Indian law, puts the Indian nations on a nation-to-nation basis with the United States. Once the Indian tribes were placed under the control of the United States, their lands reduced to reservations, and a policy of assimilation adopted, politically powerful forces opposed the idea of the Indian tribes as nations. Ending the treaty process

made a powerful political statement that the Indian tribes were no longer recognized as sovereign nations. The tribes' continued existence stood in the way of the government acquiring the last of their lands, now needed as white settlement moved onto the prairies.

The immediate impact of this shift in Indian policy was not apparent. The U.S. courts continued to interpret existing treaties as nation-to-nation agreements. New agreements that formerly would have been called treaties were now called executive orders or acts of Congress and had basically the same effect under the law.

Ultimately, however, the abandonment of the treaty system by Congress undermined the status of the Indian nations in American law and promoted a policy of assimilation. By 1877 the power of the executive branch and Congress over Indians was increasing, as the autonomy of the Indian nations was declining.

See also *Assimilation and Acculturation; Board of Indian Commissioners; Bosque Redondo; Buffalo; California Indians; Civil War; Custer, George Armstrong; Fort Laramie (1868), Treaty of; Gold and Gold Rushes; Grant, Ulysses S.; Indian Appropriations Act*

(1871); Indian Peace Commission; Lincoln, Abraham; Little Bighorn (1876), Battle of; Modoc War; Nez Perce War; Railroads; Removal; Reservations; Sand Creek Massacre; Sheridan, Philip; Sherman, William T.; Standing Bear; Texas; United States-Dakota War of 1862; U.S.-Mexican War (1846-1848).

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BIBLIOGRAPHY

- Bender, Norman. *New Hope for the Indians: The Grant Peace Policy and the Navajos in the 1870s*. Albuquerque: University of New Mexico Press, 1989.
- Danzinger, Edmund. *Indians and Bureaucrats: Administering the Reservation Policy during the Civil War*. Urbana: University of Illinois Press, 1974.
- Fritz, Henry. *The Movement for Indian Assimilation, 1860-1890*. Philadelphia: University of Pennsylvania Press, 1963.
- Gates, Paul Wallace. *Fifty Million Acres: Conflicts over Kansas Land Policy, 1854-1890*. Norman: University of Oklahoma Press, 1997.
- Nichols, David A. *Lincoln and the Indians: Civil War Policy and Politics*. Columbia: University of Missouri Press, 1978.
- Prucha, Francis Paul. *The Great Father: The U.S. Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Tatum, Lawrie. *Our Red Brothers and the Peace Policy of President Ulysses S. Grant*. Lincoln: University of Nebraska Press, 1970.
- Utey, Robert M., and Wilcomb E. Washburn. *Indian Wars*. Boston: Houghton Mifflin, 1977.



U.S. Indian Policy: Congress and the Executive, 1871–1934

Federal Indian policy in the late nineteenth and early twentieth centuries focused on two complementary objectives: pacifying tribes residing west of the Mississippi River so that the expansion of Euro-American settlement could proceed without interruption and assimilating Native Americans into the majority society via education, Christianization, and individualization.

Peace Policy and Reform

Drawing on the recommendations of the Doolittle Committee and the U.S. Indian Peace Commission report of 1867, President Ulysses S. Grant introduced the so-called peace policy in 1869. The policy sought to enhance the honesty and efficiency of the Indian Office by allowing religious and humanitarian groups to take over the administration of reservations. The military, meanwhile, was responsible for forcing Indians onto the reservations and keeping them there so that the Christian administrators and teachers could “uplift” them and encourage their assimilation into the white man’s culture. During the 1870s, violence erupted across the Great Plains as warriors from several tribes resisted reservation confinement and the loss of their lands. By the end of 1876, however, the U.S. Army succeeded in defeating the Plains Indians and opening up vast tracks of land for settlement.

To provide much needed oversight to the administration of Indian affairs—which had a long history of dishonesty and corruption—Congress authorized the president to establish the Board of Indian Commissioners (BIC) on April 10, 1869. As part of the government’s ongoing efforts to weaken Indian sovereignty and tribal organization, the BIC recommended in its first annual report that the U.S. cease making treaties with Indian nations. The recommendation met with congressional approval, particularly in the House, where lawmakers had long nurtured a grudge about appropriating funds to fulfill treaty obligations which they had had no voice in ratifying. Accordingly, in the Indian Appropriations Act of 1871, the federal government declared that it would no longer recognize Indian peoples as independent nations with whom to contract by treaty, although existing treaties were still the law of the land.

Grant’s decision to enlist the support of the nation’s churches to help reform reservation conditions appeared to work well for a few years, but interdenominational rivalries and the pressures of political patronage undermined the promising start. Carl Schurz, the secretary of the interior under President Rutherford B. Hayes, questioned the effectiveness of allowing churches such a prominent role in selecting reservation personnel, and by the early 1880s the government had abandoned the practice. The assimilation agenda, meanwhile, continued its uneven advance as reformers both inside and outside of the government quarreled over the merits of transferring control over the Indian Office from the Interior Department to the War Department. Public outrage over the unjust confinement of the Ponca chief Standing Bear following his 1879 “escape” from Indian Territory, combined with the social evolutionary theories of anthropologists Lewis Henry Morgan and John Wesley Powell, gave momentum to calls for the “liberation” of Native Americans from government control; their complete cultural, political, and economic assimilation; and the dismantling of the despised reservation system. Commissioner of Indian Affairs John Q. Smith (1875–1877) argued that unless the Indians accepted the uncertain nature of their existence and adopted agriculture and other “civilized pursuits,” they were destined for a speedy extinction. In 1877 Indian Office commissioner Ezra Hayt (1877–1880) recommended several assimilation-oriented goals for Native Americans that the federal government pursued during the ensuing decade: the establishment of a compulsory common school system, the creation of Indian police forces under the direction of white officers, the promotion of agriculture, and the division of tribal lands into small individually owned allotments that would be inalienable for twenty years.

Education and Assimilation

During the 1870s and 1880s, the federal government made serious efforts to improve the educational programs available to Native Americans. Although education had long been a key tactic in the government’s general program for Indian assimilation, policymakers left the actual process in the hands



Beginning in 1883, the Lake Mohonk Conference in New York met annually to provide advice and oversight to federal Indian education and other reform efforts. The people who gathered there became some of the foremost proponents of reforming U.S. Indian policy.

of churches that operated missions among the Indians. Between 1870 and 1887, government appropriations for Indian education increased from \$140,000 to over \$1.2 million. The number of Indian children attending schools also expanded. In 1879 an average of 4,488 Indian children attended one of the 163 schools run by the Indian Office; by 1887 the average number attending Indian Office schools or one of the sixty-four schools operated by private agencies under government contract rose to 10,520. Among the most prominent of the off-reservation boarding schools was the Carlisle Indian Industrial School, founded in 1879 in Carlisle, Pennsylvania. Convinced that Indians were a product of their environment, Richard H. Pratt, the school's founder, sought to integrate his students into white society. To prepare them for this eventuality, he insisted that they cast off all manifestations of their Native cultures, including language, religion, and dress, and adopt those of the whites—to in effect, “kill the Indian to save the man.” Strict regimentation, vocational training, and close supervision, in Pratt's view, were necessary to ensure that students would not return to their Indian ways.

Although the Carlisle Indian Industrial School awakened public opinion that Indians were indeed capable of being educated and could take their places in white society, Pratt's model ran into opposition from reformers who questioned the humanity of his tactics. More importantly, off-reservation school graduates experienced serious difficulties adjusting to life back home. Over time, many reformers concluded that the government needed to place greater emphasis on educating children residing on reservations in order to bring larger numbers of people within the school's sphere of influence. Under the administration of Commissioner Thomas Jefferson Morgan (1889–1893), the Indian Office worked to systematize the patchwork educational arrangement so that reservation schools, boarding schools, and the national industrial schools like Carlisle were all working toward common

objectives and reinforcing each other. Morgan sought to impose a uniform course of study, similar teaching methods, and the use of standard textbooks so that the Indian schools would more closely resemble the public school system of the various states. Coeducation was another part of Morgan's plan, seen as the surest way to uplift Indian women from their inferior position in Native society. Like Pratt, however, Morgan insisted that Indian education be geared toward assimilation—teaching independence, self-reliance, and self-respect. Educators, he argued, should instruct their Indian students in their rights and duties as American citizens, that the United States (rather than a reservation) was their home, and that they should love their flag and country.

Complementing the BIC, the annual gatherings of the Lake Mohonk Conference in New York provided support, advice, and oversight to Indian educational policy and related reform efforts. The humanitarian-minded men and women who met at Lake Mohonk each year beginning in 1883 possessed no official status, but they exercised important influence over public opinion, aggressively advocating various reform measures in the press and in Washington, D.C. The Lake Mohonk participants, along with the Indian Rights Association (est. 1882) and the BIC, became the leading proponents of measures aimed at ensuring honest and efficient service and integrating Indians into the social, economic, and political realms of American life.

Policing and Law

While Indian Office educators were systematizing Indian schools, other reformers were making Native Americans amenable to following the laws of the United States. Whites argued that it was only fair that Indians comply with the rules and regulations that were the obligation of every other American, but reformers saw the law as a shield with which to protect the Indians' personal and property rights. In 1878 Congress authorized the establishment of the United States

Indian Police, and within three years the system was in operation at forty agencies and included 162 officers and 653 privates. On April 10, 1883, Indian Office commissioner Hiram Price (1881-1885) established courts to try Indian offenses, which granted Indian judges jurisdiction over thefts, destruction of property, and intoxication, as well as "threats" to the assimilation program such as polygamy and participating in certain dances. The issue of jurisdiction over more serious crimes committed on reservations came to the forefront in the case of the Sioux Indian Crow Dog, whom the territorial court of Dakota had sentenced to death for murdering Chief Spotted Tail. In 1883 the U.S. Supreme Court in *Ex Parte Crow Dog* ordered federal officials to release Crow Dog because the government lacked jurisdiction over reservation crimes committed by one Indian against another. To address this oversight, Congress in 1885 passed the Major Crimes Act, granting U.S. courts authority over cases involving murder, manslaughter, rape, assault with intent to kill, arson, burglary, and larceny committed by one Indian against another in Indian country. (The U.S. Supreme Court upheld the constitutionality of the act in *United States v. Kagama* [1886].) By asserting its jurisdiction over strictly internal crimes of Indians against Indians, the federal government struck a major blow to Indian sovereignty and opened the way for unlimited interference by the government in the affairs of Indian peoples.

Allotment

The passage on February 8, 1887, of the General Allotment Act (or Dawes Act) was the climax of the assimilation policy and another example of the government's desire to interfere in tribal life and organization. The allotment system (or severalty plan) sought to break up reservations and make individual landowners and farmers of the Indians, without reference to tribe or traditional community life. Reform groups such as the Indian Rights Association, the Lake Mohonk Conference, and the BIC were supportive of the measure, the BIC going so far as to refer to the day that President Grover Cleveland signed the legislation as "Indian emancipation day" (Lyman S. Tyler, *A History of Indian Policy*, 1973). To Native Americans, the Dawes Act was revolutionary, as they tended to think of land use in terms of community rather than for individual use or ownership. To land-hungry white settlers who coveted Indian lands, however, the Dawes Act provided millions of acres of "surplus" property (those reservation lands "left over" after all eligible Indians had received an allotment) closed to them prior to

the law's passage. As conceived, the law authorized the president to select reservations to be broken up and their lands allotted to individual Indians. To prevent the allottee from immediately selling his land, the Dawes Act called on the government to hold the land in trust for a period of twenty-five years, after which time the Indian landholder would receive a patent in fee. New allottees were also granted U.S. citizenship and by terms of the Fourteenth Amendment became citizens of a particular state. As a citizen with a patent in fee, the Indian was able to sell or do whatever else he wished with his land.

Despite the hopes of the Indian reform organizations, relatively few Indians actually farmed their allotments. That being the case, Congress passed legislation in 1891 that permitted Indians to lease their allotments to others (often non-Indians) to farm so that they would derive a small income from their property. By the creation of the Dawes Commission in 1893, and by the Curtis Act of June 28, 1898, the federal government extended the allotment policy to the so-called Five Civilized Tribes in the Indian Territory. The Curtis Act also abolished tribal laws and courts and brought all persons in the Indian Territory, regardless of race, under United States authority, thereby breaking up the tribal systems of the Cherokees, Choctaws, Chickasaws, Creeks, and Seminoles. Meanwhile, a clause in the Dawes Act permitted the secretary of the interior to purchase the tribes' surplus lands and open them to public sale. The Department of the Interior would hold the proceeds in trust for the tribe (subject to Congressional appropriation) for the education and welfare of its members. Because of pressures from speculators and farmers to buy the surplus lands, Indian landholdings declined from 155,632,312 acres in 1881 to 77,865,373 acres in 1900. In 1903 the U.S. Supreme Court ruled in *Lone Wolf v. Hitchcock* that Congress possessed the power to dispose of tribal lands without Indian consent, which accelerated the erosion of the once-vast Indian domain.

The first substantial change to the allotment process came in 1906 when Congress passed the Burke Act, which postponed Indian citizenship until the end of the twenty-five year trust period, thus reversing, or at least slowing down, the individualizing and Americanizing process of the Dawes Act. On the other hand, the law empowered the secretary of the interior to grant citizenship and land title to any allottee considered "competent and capable of managing his or her affairs." (Robert M. Kvasnicka and Herman J. Viola, *The Commissioners of Indian Affairs, 1824-1977*, 1979).

Commissioner Francis E. Leupp (1905–1909), however, lacked adequate criteria for judging the competency of Indian applicants for titles under the Burke Act, and relied primarily on the recommendations of reservation superintendents. Within two years, surveys indicated that over 60 percent of those “competent” Indians receiving fee simple titles had lost their land and squandered the proceeds.

On a more positive note, the deplorable state of Indian health care came under close government scrutiny during the first two decades of the twentieth century in response to reports of widespread tuberculosis and trachoma (an eye infection) on reservations. In 1873 the Indian Office had attempted to improve its efforts to provide medical assistance to Native peoples by establishing the Medical and Educational Division within its organization. Due to lack of funding, however, the Indian office terminated the medical section, and health care for Indians was left to the agency and school doctors. In 1909 the Indian Office appointed a medical supervisor to oversee health care services, and two years later an Indian health program became a regular part of the office’s responsibilities. Congressional appropriations for Indian health care grew steadily thereafter, and the passage in November 1921 of the Snyder Act authorized federal funds for the relief of distress and conservation of Indian health. In 1924, a separate medical division was established in the Indian Office.

Citizenship

The federal government actively encouraged American Indian participation in World War I (1914–1918) in hopes that military service, travel, and contact with white soldiers would promote assimilation. Approximately ten thousand to twelve thousand Native Americans served in the war, most through enlistment. Because of popular stereotypes that depicted Indian men as possessing inherent martial qualities, substantial numbers received dangerous assignments and Indian casualty rates exceeded those of other Americans serving in the American Expeditionary Force. Shortly after the U.S. entered the war, Commissioner of Indian Affairs Cato Sells (1913–1921) announced a new policy that sought to accelerate the assimilation process by requiring that all able-bodied Indians of less than half Indian blood be given full and complete control over their property. Sells then dispatched “competency commissions” to various reservations to identify adults of one-half or more Indian blood who were competent to receive patents in fee to their lands and “independence” from government supervision. Between

1916 and 1921, consequently, the Indian Office issued more than twenty thousand fee-simple patents compared to 9,894 in the period from 1906–1916. The predictable result of this was that many of the Indians released from federal supervision quickly disposed of their property, and in 1920 Secretary of the Interior Franklin K. Lane ordered the cessation of further broad-based issuances of patents in fee.

Following World War I, calls for a blanket citizenship measure for American Indians gained momentum. Advocates such as the Society of American Indians, for example, resolved that Native Americans deserved citizenship as a reward for their valuable contributions at home and at war. Although over half of the Native American population had secured citizenship prior to WWI (as a result of previous treaties, the Dawes Act, forced patenting, or intermarriage with citizens, or the like), in June 1924 Congress passed the Indian Citizenship Act that conveyed citizenship to the remaining 125,000 noncitizen Indians living in the United States.

Toward Reform

The 1920s witnessed the emergence of a diverse but influential reform movement that combined the efforts of the Indian Rights Association, the newly formed American Indian Defense Association, the Indian Welfare Committee of the General Federation of Women’s Clubs, and others. In response to mounting criticism of the government’s management of allotment and of Indian property in general, Secretary of the Interior Hubert Work established a national advisory committee known as the Advisory Council on Indian Affairs to examine the Indian Office and recommend changes. Its December 1923 report, commonly referred to as *The Indian Problem*, failed to satisfy the reformers, however, and in 1926 Lewis Meriam of the Institute for Government Research led a team of inspectors on a second survey of reservation conditions. Their 1928 report, *The Problem of Indian Administration* (or the *Meriam Report*), identified deplorable conditions in health, education, and economic welfare and called for larger congressional appropriations to improve the administration of the Indian Office. It also broke with the forced assimilation philosophy of the previous half-century and recommended a program based on attempting to understand Indian perspectives and to build on—rather than destroy—all that was Indian.

The task of implementing the many changes recommended in the *Meriam Report* fell to Secretary of the Interior Ray Lyman Wilbur and Commissioner of Indian Affairs Charles J. Rhoads (1929–1933). Together with his assistant

J. Henry Scattergood, Rhoads focused on promoting equality of opportunity and economic independence among Native Americans as necessities for them to become productive and self-sufficient participants in American society. The fundamental aim of the Indian Office, Commissioner Rhoads wrote in his 1929 annual report, was to make of the Indian a "self-supporting and self-respecting citizen" just as rapidly as possible (Kvasnicka and Viola). Once this important goal was accomplished, the federal government could eliminate the Indian Office altogether.

Rhoads and Scattergood proceeded cautiously in implementing the changes recommended in the *Meriam Report*. In March 1931 they executed a plan calling for the division of the Indian Office into five areas (health, education, agricultural extension and industry, forestry, and irrigation), each headed by qualified experts who exercised direct executive and administrative powers over their respective divisions. They also identified long-standing problem areas that required attention: reimbursable debts, safeguarding Indian properties through the establishment of tribal corporations and amending the allotment system, the settlement of Indian claims through creation of a special Indian Claims Commission, and the reclamation and irrigation of Indian lands. Programs for Indian health secured increased appropriations during the Rhoads-Scattergood era, and under the guidance of education director W. Carson Ryan, the Indian Office undertook a complete overhaul of Indian school curriculums and administration.

Unfortunately, the Great Depression that so devastated the American economy also derailed many of Rhoads's reform efforts. While the movement to promote closer federal-state cooperation in matters relating to Indian affairs advanced during the Hoover presidency, Congress did not give final approval to measures that provided funds for states to address the needs of off-reservation Indian communities until April 1934 with the passage of the Johnson-O'Malley

Act. Two months later, many of the reforms recommended in the *Meriam Report* and advanced by reformers and government officials for years received a significant boost with the passage of the Indian Reorganization Act. The act signaled a "New Deal" for American Indians and an end to the assimilation agenda of the previous half-century.

See also *Allotment in Severalty*; *American Indian Defense Association*; *Assimilation and Acculturation*; *Board of Indian Commissioners*; *Burke Act of 1906*; *Carlisle Indian School*; *Citizenship, United States and State*; *Courts of Indian Offenses*; *Curtis Act*; *Ex Parte Crow Dog*; *General Allotment Act (Dawes Act) of 1887*; *Grant, Ulysses S.*; *Hayes, Rutherford B.*; *Hoover, Herbert*; *Indian Appropriations Act of 1871*; *Indian Citizenship Act of 1924*; *Indian Health and Healthcare*; *Indian New Deal*; *Indian Peace Commission*; *Indian Police Forces*; *Indian Reorganization Act*; *Indian Rights Association*; *Indian Territory*; *Johnson-O'Malley Act of 1934*; *Lake Mohonk Conferences*; *Leupp, Francis E.*; *Lone Wolf v. Hitchcock*; *Major Crimes Act*; *Meriam Report*; *Morgan, Thomas J.*; *Pratt, Richard H.*; *Price, Hiram*; *Reservations*; *Rhoads, Charles J.*; *Schurz, Carl*; *Sells, Cato*; *Society of American Indians*; *Standing Bear*; *United States v. Kagama*; *World War I, American Indians and*.

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BIBLIOGRAPHY

- Dippie, Brian W. *The Vanishing American: White Attitudes and U.S. Indian Policy*. Middletown, Conn.: Wesleyan University Press, 1982.
- Hoxie, Frederick E. *A Final Promise: The Campaign to Assimilate the Indians, 1880-1920*. Lincoln: University of Nebraska Press, 1984.
- Kelly, Lawrence C. *The Assault on Assimilation: John Collier and the Origins of Indian Policy Reform*. Albuquerque: University of New Mexico Press, 1983.
- Kvasnicka, Robert M., and Herman J. Viola. *The Commissioners of Indian Affairs, 1824-1977*. Lincoln: University of Nebraska Press, 1979.
- McDonnell, Janet A. *The Dispossession of the American Indian, 1887-1934*. Bloomington: Indiana University Press, 1991.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Tyler, S. Lyman. *A History of Indian Policy*. Washington, D.C.: United States Department of the Interior, 1973.



U.S. Indian Policy: Congress and the Executive, 1928–1946

By 1928 the Indian wars had been over for more than a quarter century. The amount of land in Native control had been reduced by two-thirds under the allotment policy, and the federal government sought to handle Indian affairs through a series of statuses, statutes, and legal decisions that could be applied to a variety of situations. Congress now originated the United States's Indian policy under the “plenary power doctrine,” which provided it with complete authority over Native issues. The Office of Indian Affairs (OIA) within the Department of the Interior was the executive agency responsible for implementing federal policies.

The subsequent two decades were characterized by a change in direction from the era of allotment and forced assimilation. By the 1920s these policies were generally discredited and largely decried by Native peoples and humanitarians. Demand for Native lands had diminished as the remaining reservation lands were seen by non-Indians as being of little use.

Contrary to Congress's intentions under the allotment policy, many Indians had not been assimilated into mainstream American society. The Native population had, in fact, begun to rebound from its turn-of-the-century low of 250,000 to an estimated 343,352 in 1930. A series of well-publicized outrages, the rise of pro-reform organizations, and the creation of an effective lobbying presence in the successful battle against the 1922 Bursum Bill worked to change the tenor of discussion regarding Indian policy.

Congressional testimony began to focus on ending the trust status between the government and Indian tribes and attacking the failures of the Department of the Interior to effectively regulate Indian affairs. While other studies and reports helped build the foundation for policy change—including the OIA's 1928 report on reservation irrigation and a 1929 report on reservation law and order—the end of allotment was heralded by *The Problem of Indian Administration*. This 1928 study, generally known as the *Meriam Report* after Lewis Meriam, its lead author, was commissioned by the Senate. The report was prepared by the Institute for Government Research, the predecessor to the

Brookings Institution, and its mission was to survey the conditions of American Indians. It documented Native people's horrendous economic situations, extreme social disorganization, inadequate housing, and poor health. It chastised the OIA and called for an end to the allotment policy, better health care and education, and more protection for Native property rights. Ray Wilbur, who became secretary of the interior the following year, attempted to make some changes, but major innovations in United States policy toward Native Americans were not implemented until the early 1930s.

John Collier and the Indian Reorganization Act

Change was happening on many political fronts in response to the Great Depression and emergence of the Roosevelt New Deal. This included a rebellion against the predominant nineteenth-century focus on the individual over the community and a growing belief in an increased role for government. These changes reached Indian Country with the 1934 Wheeler-Howard Act, also known as the Indian Reorganization Act (IRA), or the “Indian New Deal.”

The architects of the IRA were Secretary of the Interior Harold Ickes and OIA commissioner John Collier, both of whom took office in 1933. Both men held their offices for twelve years, which created a period of unusual stability in the administration of U.S. Indian policy. Collier was one of the few figures in United States–Native affairs who was—and remains—generally respected, even by those who disagreed with him. Prior to his appointment as commissioner, Collier already had a history of supporting Indian rights and cultures and was a strong believer in cooperative and communitarian values. He saw Native cultures as, among other things, the living embodiment of an alternative to his own society's increasingly individualistic values.

Upon taking office, Collier moved quickly to reform the delivery of Indian educational services and improve reservation conditions by directing New Deal relief funds to Indian communities. But his signature legislative accomplishment was the Indian Reorganization Act of 1934. Early in his tenure as commissioner, Collier drafted legislation that cov-

ered Indian self-government and education, the disposition of Indian lands, and the creation of a Court of Indian Affairs. (The latter idea was dropped as the bill was amended.) The hearings on the bill featured opposition by some who had business interests in the existing policy, the airing of intra-tribal disputes, testimony by state officials, and protests by pro-assimilation interest groups who accused Collier of harboring socialist and communist ideas.

Congress diluted provisions of Collier's original bill, thus weakening its support of Native culture, self-government, and land consolidation. Collier's allies were able to get this lesser version of the bill through Congress partly by remaining vague—and even contradictory—about what the legislation was supposed to accomplish. Nathan Margold, the Interior Department's solicitor, subsequently issued an opinion that tribal governments formed under the act would be based upon the tribe's original sovereignty. Margold and Indian leaders often argued that Native political authority was inherent and did not derive from powers delegated by Congress.

As it was passed, the law ended the allotment policy and slowed the removal of land and resources from tribal control. It created a \$10 million revolving fund for economic development, a preference for Indian employees at the OIA, and a mechanism by which tribes could create constitutional governments. However, the act also retained the United States's policy focus on the control of reservation land and resources.

Native Americans' reactions to Collier's proposal were mixed, partly because many correctly understood that the federal government remained committed to assimilation, although at a more gradual pace and (presumably) guided by the input of Indian people and tribal governments. Even so, the final legislation was a genuine attempt at reform that marked a clear departure from past policies by asserting the right of Native societies to continued existence and providing opportunities for Native peoples to exercise influence over their own affairs.

The IRA: A Critical Review

While the IRA ended allotment, Congress did not subscribe to Collier's goal of increased Native control of land, primarily for two reasons. First, land that had already been allotted continued to be held in trust by the Office of Indian Affairs for the individual Indian who owned the parcel. As allotments passed to ever-larger numbers of heirs, it became increasingly difficult for Native people to exercise control over land that was owned by dozens of people and adminis-

tered by the OIA under the trust principle. This fractionated ownership continues to be a problem for Native individuals and communities.

Second, the IRA set up a mechanism for the establishment of tribal governments modeled on U.S. government. This provision of the law was based on the principle that tribal sovereignty still existed in some form, but its implementation involved creating new tribal government institutions based upon the U.S. model. The law provided that the United States would work with Native nations to design the new governments and give Native individuals the opportunity to vote on their adoption. However, implementation was structured so that a clear majority of each reservation's residents had to participate in a vote and vote against the application of the IRA or a new tribal government was automatically implemented on their reservation.

Native Americans were often unfamiliar with the concept and practice of voting, hampered by distance and lack of communication, and unwilling to participate in the program of a foreign government. Because abstentions were counted as votes in favor of a new government, some tribal governments were created even though the majority of those who actively voted were against them. IRA constitutions also contained a provision giving the secretary of the interior the authority to accept or veto any action taken by the tribal governments formed under the law.

The creation of these governments—ninety-three in the first ten years—was clearly not an expression of tribal sovereignty, but of the power of the United States. Tribal governments formed under the IRA had to be approved by the OIA. Whether land and resources were held by individuals under the allotment policy or by a tribal government under the IRA, the OIA and, ultimately, Congress had the final say. About one-half of all tribes eventually created "IRA governments," which were typically headed by an elected tribal council. This process laid the groundwork for struggles over those governments' legitimacy that continue into the twenty-first century.

The largest Native nation, the Navajo (Diné), rejected an IRA government. In addition to the reasons noted above, the Navajos had a particularly bitter experience with the federal government's livestock reduction policies during the New Deal era. As the droughts of the 1930s swept western America, it became clear that the agricultural practices of the previous fifty years were not appropriate for arid and semi-arid lands. Soil erosion caused by farming methods tailored to a wetter environment and by overgrazing led to massive

dust storms. Part of the U.S. government's solution was to destroy livestock, and eventually half of all Navajo livestock was killed—often in front of their disbelieving owners. The issues of forced livestock reduction and the IRA governmental model were also closely linked for the Tohono O'odham (Papagos).

From the executive branch's point of view, IRA governments were preferable to traditional governments because they provided a clear authority structure that concentrated accountability and facilitated contracting. One reason for the passage of the new law was the traditional Navajo government's refusal to allow access to its lands for oil and gas development in the 1920s. In that case, the Indian commissioner appointed a new tribal government, which dutifully signed leases with Standard Oil.

The formation of IRA governments was partially sold to Congress and to the American public as giving Natives a vote in their own affairs. However, the basic thrusts of U.S. policy—assimilation of Native people and control of Native lands and resources—remained unchanged. Journalist Marjane Ambler called the period before 1970 the “Rubber-Stamp Era” in tribal government, as those governments, whether formed under the IRA or via other means, continued to provide United States–based institutions with nearly anything they requested.

The new IRA governments were created using each reservation as the unit of organization. U.S. administrators generally lacked knowledge of, or appreciation for, indigenous sociopolitical units. This created situations in which several distinct Native nations were lumped under one government, as was the case for the Arapahos and Shoshones on the Wind River reservation or the Mandans, Hidatsas, and Arikaras on the Fort Berthold reservation. On the other hand, Native nations with multiple reservations—such as the Apaches, Anishinabes (Chippewa), and Lakotas/Dakotas (Sioux)—ended up with multiple tribal governments that often acted independently of traditional alliances and cultural ties.

The new governments also worsened existing intratribal divisions, particularly between those who continued to value traditional cultures and those who were more acculturated to the dominant society. IRA governments were often created—and continue to operate—in addition to traditional governments already in place. IRA governments have typically been controlled by those more educated according to United States standards, and traditional people have often refused to become involved in governments imposed from

without. Over time, as tribal governments began to gain control over the federal government resources entering reservations, this often evolved into situations in which mixed-ancestry, acculturated Indians controlled tribal resources to the exclusion of other groups. This increased fragmentation and broke traditional community bonds. It also tended to unlink cultural norms that intertwined political activity, kinship, spirituality, and economic activity.

The Johnson-O'Malley Act and Other Reforms

Another important piece of legislation passed in 1934 was the Johnson-O'Malley Act. This act was a partial response to the *Meriam Report's* observations on the shortcomings in Native American education and provided important educational opportunities to Native individuals and communities. The act also provided funds for other purposes, including medical care and other social welfare purposes. It is considered an outgrowth of the progressive education movement begun by John Dewey, which encouraged the use of local materials and personal experiences in the education process.

The act was implemented through the OIA and provided funding to states for the education of Native youth within their boundaries. The funding was to be used for public day schools, which were an alternative to the government and religious boarding schools that had been utilized until that time. Native American children had often been forced to go to boarding schools that were far from their home communities, and these schools made every effort to wipe out Native cultures and languages, so there was little incentive for Indians to attend. By 1943 the changes created through implementation of the Johnson-O'Malley Act had helped to increase Indian school enrollment.

American Indians also benefited from some of the other New Deal programs passed into law by Congress, partly due to Collier's efforts to link these programs to reservations. The Emergency Conservation Work Act of 1933, for example, created what became the Civilian Conservation Corps (CCC). The CCC mobilized as many as half a million people at a time to work on projects on federal and state lands during the 1930s. Soon after its initial passage, the act's coverage was specifically extended to include Indians, and a total of eighty thousand Native people took part in CCC projects. This provided badly-needed employment on reservations.

Many Natives also took part in the Works Progress Administration's Federal Art Project. This participation was complemented in 1935 by Congress's creation of the Indian Arts and Crafts Board within the Department of the Interior.



Commissioner for Indian Affairs John S. Collier and the chiefs of the Flathead Indian tribe watch Secretary of the Interior Harold Ickes sign the Wheeler-Howard bill into law in 1935. Both Collier and Ickes were instrumental in creating the bill, also known as the Indian New Deal.

The board was designed to support economic development for tribes by expanding markets for arts and crafts created by American Indians and Alaska Natives. The board's role has been expanded and strengthened over the years. In the mid-1930s, the OIA and Congress also repealed laws that had restricted freedom of association, the use of Native languages in schools, and Indian religious ceremonies.

World War II and the Indian Claims Commission

As early as 1937, there were efforts in Congress to overturn the Indian Reorganization Act and remove Collier as commissioner. Senator Burton Wheeler, after whom the act was partially named, introduced legislation to repeal it, believing it moved Native people away from individualism and assimilation. The creation of new tribal governments was seen as separating Indians from the American mainstream, fostering communal land ownership, and encouraging socialist tendencies. Some tribal members and factions resented the continuation of federal control under the reservation system, which they saw as being reinforced with the end of allotment. Collier was repeatedly called to the Capitol to defend his agency. Eventually, he resigned his post in early 1945.

But the IRA continued to be the dominant congressional policy statement until the 1950s introduced the termination and relocation policies. Until then, U.S. policy involving Native Americans usually occurred on the sidelines of

Congress and the executive branch—overshadowed by the national focus on World War II (1939–1945) and the beginning of the Cold War which immediately followed. During World War II, the OIA was actually moved out of Washington, D.C., to make room for higher national priorities. The policies put in motion by the IRA also faltered due to lack of funding and the fact that the war and the wartime economy drew large numbers of Indians off the reservation. Many of the most educated never returned. While about twenty-five thousand American Indians served in the military, some Native nations—most notable the Iroquois—resisted Congress's application of the Selective Service Act of 1940 to their members.

By the end of the war, the IRA had altered the political landscape by creating a greater expectation of Native involvement in U.S. policy and the tribal governance institutions that eventually provided a basis for that involvement. Out of this arose one of the most important Native organizations to impact U.S. policy, the National Congress of American Indians (NCAI), which held its first convention in 1944. The NCAI was not the only Native organization formed in this period, but has clearly been one of the most important. Its goals included getting tribes to work together to impact U.S. policy, preserve indigenous cultures, and protect treaty rights. While the organization has been far from universally accepted in Indian Country or consistently

effective in Washington, its founding marked the first time that an intertribal institution directly linked tribal governments, tribal members, and the U.S. Congress.

One of the early results of NCAI lobbying was passage of legislation that created the Indian Claims Commission (ICC) in 1946. The ICC was a response to the fact that Native land claims could not be brought before the U.S. Court of Claims and was designed to create a mechanism that would lead to more equitable disposition of such claims. The commission studied, considered, and decided Native land claims and was supposed to settle situations in which lands had been taken from Native Americans illegally. Between 1946 and 1952, 850 claims were filed. The ICC allocated money that was designed to buy out land claims—eventually about \$800 million—but the land itself remained in non-Indian hands.

This type of mechanism had some shortcomings. In order to overcome federal sovereign immunity, a separate act of Congress was needed to allow a suit to be filed. Then a second act of Congress was necessary to appropriate funds if Native plaintiffs won the suit. Claims were often brought in a piecemeal fashion, further fragmenting and complicating the situation.

The Indian Claims Commission Act originally gave Native claimants only five years to file any claims they wished to bring, although that time period was later extended. The legislation originally provided for research assistance to expedite claims, which was later turned into the provision of loans that claimants had to pay back out of any award that they won. The only form of damages that the act provided was a monetary settlement, which precluded the return of any of the appropriated property. The amount of damages was set as of the time the land was illegally taken, which was often a century or more earlier, and this minimized the amount of money received by Native peoples.

The law passed partly because federal Indian policy was already shifting away from strengthening tribal governments and toward a renewed focus on assimilation. Republicans were now the majority in Congress, and they were anxious to undo many aspects of the New Deal era. The settling of Indian land claims would, Congress thought, end the focus on the past and clear the way for Indian individuals to become assimilated into the dominant society. Like other members of Congress, Senator Arthur Watkins, a primary proponent of the termination policy, believed that the Indian

Claims Commission was the route to freedom for Native people. Many Indian advocates disagreed, however, seeing the two decades after Collier left office as a period of little positive advancement for Native peoples.

See also *Allotment in Severalty; Assimilation and Acculturation; Bureau of Indian Affairs; Bursum Bill; Collier, John; Education: Boarding Schools; General Allotment Act (Dawes Act) of 1887; Ickes, Harold L.; Indian Citizenship Act (1924); Indian Civilian Conservation Corps; Indian Claims Commission Act; Indian New Deal; Indian Reorganization Act (1934); Johnson-O'Malley Act (1934); Meriam Report; National Congress of American Indians; Roosevelt, Franklin D.; Sovereignty; Watkins, Arthur V.; U.S. Indian Policy: Congress and the Executive, 1871–1934; U.S. Indian Policy: Congress and the Executive, 1944–1962; Wheeler, Burton K.; World War II, American Indians and.*

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BIBLIOGRAPHY

- Barsh, Russel Lawrence, and James Youngblood Henderson. *The Road: Indian Tribes and Political Liberty*. Berkeley: University of California Press, 1980.
- Deloria, Vine, Jr. *The Indian Reorganization Act: Congresses and Bills*. Norman: University of Oklahoma Press, 2002.
- Deloria, Vine, Jr., and Clifford Lytle. *The Nations Within: The Past and Future of American Indian Sovereignty*. New York: Pantheon Books, 1984.
- French, Laurence Armand. *Legislating Indian Country: Significant Milestones in Transforming Tribalism*. New York: Peter Lang, 2007.
- Jaimes, M. Annette, ed. *The State of Native America: Genocide, Colonization, and Resistance*. Boston: South End Press, 1992.
- Lemont, Eric D., ed. *American Indian Constitutional Reform and the Rebuilding of Native Nations*. Austin: University of Texas Press, 2006.
- Parman, Donald L. *The Navajos and the New Deal*. New Haven, Conn.: Yale University Press, 1976.
- Philp, Kenneth R. *John Collier's Crusade for Indian Reform, 1920–1954*. Tucson: University of Arizona Press, 1977.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- . *Documents of United States Indian Policy*. 2nd ed. Lincoln: University of Nebraska Press, 1990.
- Rusco, Elmer R. *A Fateful Time: The Background and Legislative History of the Indian Reorganization Act*. Reno: University of Nevada Press, 2000.
- Taylor, Graham D. *The New Deal and American Indian Tribalism: The Administration of the Indian Reorganization Act, 1934–1945*. Lincoln: University of Nebraska Press, 1980.
- Wilkins, David E., and K. Tsianina Lomawaima. *Uneven Ground: American Indian Sovereignty and Federal Law*. Norman: University of Oklahoma Press, 2001.
- Wunder, John R., ed. *Native Americans and the Law: Contemporary and Historical Perspectives on American Indian Rights, Freedoms, and Sovereignty*. New York: Garland Publishing, Inc., 1996.



U.S. Indian Policy: Congress and the Executive, 1944–1962

The 1930s and 1940s witnessed dramatic changes in federal Indian policy, brought about both by new legislation such as the Indian Reorganization Act (IRA) in 1934, and by the demographic and intellectual changes that resulted from the experience of Native peoples in World War II (1939–1945). The IRA, which provided tribes with the authority to establish governments on the corporate municipal model, and other policies promoted by John Collier, the commissioner of the Office of Indian Affairs (OIA) from 1933 to 1945, were departures from the long-term policies of detribalization, allotment, and assimilation. Collier's reforms, while never fully achieving the goals he envisioned or providing tribes with complete political autonomy, have generally been regarded as more respectful of Native culture and autonomy than previous policies. The reforms proposed under the IRA, however, were rejected by many Native communities, and, like many government policies, the act caused factionalism among Indian people. Highly assimilated Indians sometimes feared that the IRA's emphasis on communal values and tribal control of assets limited their individual freedom to advance economically. Others resisted the act because the types of tribal governments allowed under the legislation were typical of European or American political traditions and not necessarily suited to cultural traditions of the tribes.

While the IRA represented an attempt to give more emphasis to tribal values and cultures, the postwar era saw a revival of American concerns for national consensus and cultural conformity, brought on in part by the fears of the Cold War. Congress returned to policies aimed at breaking down tribal identities and encouraging total assimilation. After a period in which the executive branch, including President Franklin D. Roosevelt, Secretary of the Interior Harold D. Ickes, and Commissioner of Indian Affairs Collier had provided strong leadership on Indian policy, Congress came to dominate Indian affairs in the late 1940s and the 1950s. This shift was, in part, due to the rapid turnover in high-ranking positions in both the Interior Department and the OIA.

Many in Congress believed that the self-government provisions of the IRA should have enabled tribes to take con-

trol of their own affairs, but that progress toward this goal had been too slow under Collier's leadership. This change in direction also was related to a broader effort, by resurgent conservatives, to roll back the New Deal policies in general. Collier's tenure at the OIA had always been controversial, and in the spring of 1945, the House Interior Department appropriations subcommittee threatened massive budget cuts to OIA programs unless Collier resigned. Bowing to the pressure, Collier left the OIA in February 1946.

Indian Claims Commission

One of the first steps in implementing the new postwar policies was the creation of the Indian Claims Commission in 1946. There was growing awareness that Indian tribes had been wrongfully dispossessed of their property, and many Native leaders and their allies, including Collier, had called for compensation for their claims. Proponents of what would come to be called termination, however, approached this issue with the conviction that once all past injustices were addressed, the federal government could "get out of the Indian business" by ending any special responsibility it had for Indian affairs and the trust relationship it exercised over Indian lands.

The Indian Claims Commission Act established a three-person board (later expanded to five members) to hear cases brought by tribes against the federal government. Under the original provisions, all cases had to be filed within five years, and the commission would have up to ten years to decide a case; however, both deadlines were extended several times. Most of the cases filed dealt with land issues, but land would not be returned—the law specifically stated that all claims would be settled by monetary payments.

Land cases went through three phases. The first was the title phase, in which the tribe had to demonstrate their exclusive claim to the land that had been taken from them. If these conditions were met, the case proceeded to the value phase, where the commission determined the true value of the land at the time it was taken—not the current value at the time of the claim. The third phase involved what were called gratuitous payments. In this procedure, the commis-

sion looked at whatever payments or expenditures the government had ever made to or for the tribe that had not specifically been required by a treaty obligation. The amount of these so-called gratuitous payments would be deducted from any settlement paid to the tribe.

While it might appear that the bar for successfully presenting a case was set very high, the commission eventually paid out settlements of more than \$800 million in 285 of the approximately 850 cases filed. The average settlement was approximately \$3,000,000. If this was paid out to individual tribal members on a per capita basis, it usually ranged from a few hundred to a few thousand dollars per family. After extending the deadlines for filing and settling cases several times, Congress dissolved the commission in 1978, and cases still pending at that time were transferred to the U.S. Court of Claims. In some cases, the distribution of awards produced internal discord. The Bureau of Indian Affairs (as the Office of Indian Affairs was renamed in 1947) was given the responsibility of determining whether payments from successful cases should be made to the tribal government or paid out to individuals on a per capita basis.

Termination

Many members of Congress intended that once payment was made through the Indian Claims Commission for past injustices, the U.S. government would no longer have any obligations toward Indians that it did not have toward other citizens. Cutting the cost of government provided a convenient rationale. The Commission on Organization of the Executive Branch of the Government (also known as the Hoover Commission after its chair, former president Herbert Hoover) was charged with investigating ways to streamline government operations. In the matter of Indian policy, the Hoover Commission asserted that assimilation should be the ultimate policy goal. It recommended abolishing the Bureau of Indian Affairs (BIA) and ending its responsibilities or transferring them to other government agencies.

In 1947 Congress directed William Zimmerman, the acting commissioner of the BIA, to identify those tribes prepared to have the federal government's management and responsibilities terminated. Zimmerman listed several tribes in each of three categories: 1) those ready for immediate termination, 2) those that would be ready within ten years, and 3) those that would not be ready in the foreseeable future. Factors involved in making these distinctions included the degree of acculturation among the tribal people and their economic circumstances, the willingness of the tribe to have

federal responsibility terminated, and the ability and willingness of the states involved to take on the burden of providing services that were currently federal responsibilities. Tribes that were described as ready for immediate termination included the Klamath, the Osage, the Menominee, and the Flathead.

Dillon S. Myer, who served as commissioner of the BIA from 1950 to 1953, was a strong advocate of termination. Myer, who had supervised the internment camps for Japanese American citizens during World War II, saw the Indian reservations as prison camps from which the Indians needed to be liberated. He also replaced old-line BIA veterans with bureaucrats with little interest or knowledge of Indian affairs.

He believed that federal programs that provided any benefits for Indians that were not available to other American citizens gave Natives an unwelcome privileged status.

Congress began the push for termination in 1952 with passage of House Concurrent Resolution 698. The resolution directed the BIA to report on the ability of various tribes to manage their own affairs. As Zimmerman had done earlier, Myer categorized several tribes that were ready to be terminated immediately, others that might be ready soon, and a large number of tribes that were not close to being prepared for this step. Congress then began preparing termination proposals, the first of which was House Concurrent Resolution 108, passed in August 1953, which articulated the will of Congress as to the future direction of federal Indian policy. It called for a Native American to be subject to the same laws and entitled to the same "privileges and responsibilities" as any other U.S. citizen. It also called for ending the federal government's trust relationship with Native individuals and tribes as quickly as possible. When termination was carried out with any particular tribe, separate pieces of regular legislation were passed in each case. Each bill specified the ending of federal trust status for the former tribal members and their lands. Congress also usually dissolved the tribal governments. Any federal government services that were available to tribal citizens because of their Indian heritage were no longer available to members of terminated tribes. The federal government put enormous pressure on some tribes to accept termination.

In many cases, termination proved disastrous for tribes. The best-known examples took place in Oregon, with the Klamath tribe, and with the Menominees of Wisconsin. On the surface, both appeared to be likely candidates for successful termination. Both had a viable economic base provided



Wisconsin governor Patrick J. Lucey in 1972 signed a bill returning to the Menominees bonds they were forced to forfeit as a consequence of their disastrous termination.

by extensive timber resources. But for a variety of reasons, termination did not go smoothly. By the time the Menominee termination bill was passed, the majority of the tribal members actually opposed the measure. However, they found the momentum generated by the ongoing bureaucratic processes impossible to overcome. When the tribe was terminated, what had been the Menominee reservation became Menominee County in Wisconsin—the least populous county in the state, with the lowest per capita income and the highest unemployment. The county government had to create public services from scratch and set up a tax structure to pay for infrastructure and government services that had been a federal responsibility during the reservation era. Individual tribal members had been led to believe that their tribal hunting and fishing rights, guaranteed by earlier treaties, would continue to be honored, but they were not, and many tribal people were arrested by state game and fish officials for breaking wildlife regulations. In 1973 the federal government recognized the policy's failure and restored the tribal government and the federal trust relation of the Menominee tribe.

The Klamath situation was similar in many ways. The Klamath numbered about two thousand individuals, and their reservation encompassed more than 860,000 acres, including valuable timber land. Tribal members had an

option to retain their tribal relationship and place their share of the reservation lands in a private trust that would be administered for the tribe, or they could sever their tribal relationship and receive a one-time per capita payment of more than \$40,000. About three-fourths of the tribe opted for the per capita payment. Their share of the reservation lands were sold to private timber interests or to the federal government, which turned much of it into federal forests or wildlife refuges. Merchants in the area of the former reservation saw these per capita payouts as a gold mine waiting to be tapped, and through mismanagement and unscrupulous business practices, many of the Klamath people quickly lost both their land and their settlement money. As with the Menominees, the problems created by termination among the Klamaths were so apparent that the tribal organization and trust status were restored by federal legislation in 1978.

Opposition to Termination

The termination program made worse the factionalism that had previously existed within and among Indian groups. Some individuals, and particularly those who had embraced some aspects of majority cultural values, argued that Indians stood to benefit from the termination of federal authority over tribes and Indian individuals. The majority of tribal cit-

izens in most Indian communities, however, strongly opposed termination. The BIA maintained that a tribe had to consent to its termination, but the agency interpreted a Native individual not voting in a tribal referendum on the issue as a vote in favor of termination.

Between 1953 and 1960, Congress passed termination acts involving more than one hundred Indian tribes or bands, a total population of about thirteen thousand people (out of a total estimated Indian population of four hundred thousand in the United States), and reservation and allotted lands totaling approximately 1.3 million acres out of the total 43 million acres of Indian lands held in trust by the federal government. Opposition to the program, and the fear that it might be applied elsewhere, spurred various tribes and pan-Indian groups into action. One of the major pan-Indian groups involved in the fight against termination was the National Congress of American Indians (NCAI), founded in 1944. In the late 1940s and early 1950s, the NCAI began lobbying for several reforms, especially voting rights and civil equality. But the fight against termination led to a much greater mobilization of the organization. Joseph Garry, the chair of the Coeur d'Alene tribe in Idaho, became the most prominent spokesman for the opposition to termination. Leaders of the NCAI met in Washington for eight weeks while Congress debated the termination issue. Tribes from twenty-one states and the Alaska territory sent representatives to lobby against the policy, in what was thought to be the largest contingent of Native Americans ever to gather in the capitol.

In the early 1960s, two new groups emerged that also took up the fight against termination and for self-determination for Native peoples. The first of these was the American Indian Chicago Conference, which was held at the University of Chicago in June 1961. More than 450 Indian leaders from ninety different tribes met to discuss problems facing tribal peoples. They issued a "Declaration of Indian Purpose" that called for the abandonment of the termination program, among other reforms. Later that year, the National Indian Youth Council (NIYC) was formed at a meeting in Gallup, New Mexico. Many of the members of NIYC were college students from urban backgrounds. The emergence of articulate spokespeople who were skilled in the use of the political process and in attracting favorable media attention was a significant factor in the fight to get the Indian voice heard. Ironically, termination, which many of its supporters hoped would weaken tribal bonds, instead strengthened Native Americans' attachments to their own tribes and cultures and

also energized several pan-Indian groups. Opposition to termination was also a major factor in producing the various Indian activist groups that arose in the 1960s.

By the late 1950s, termination began to lose some of its appeal for many members of Congress. The strong opposition by Indian groups and advocates of Native rights had some impact. Many state governments had initially supported termination because ending federal trust status would bring the reservations under state legal jurisdiction. However, some states began to reconsider when they realized that the burden of providing education and social welfare services that had been federal responsibilities would now fall on them. Critics charged that termination was an ill-advised policy that had been rushed into effect. In 1956 President Dwight D. Eisenhower declared that no tribe would be terminated without its consent, and in 1958 Interior Secretary Fred Seaton confirmed that this was now the official policy of his department.

Relocation

During World War II, approximately one hundred thousand Indians had left reservation communities to serve in the military or work in war-related industries. After the war, the return of many of these people put severe economic strains on many reservations. In response, the BIA began to promote programs for relocating Indians to urban areas where job opportunities were greater. In 1948 the BIA began a program for the Navajos that became a prototype for the relocation services program. Placement offices were opened in Denver, Colorado; Salt Lake City, Utah; and Los Angeles, California. In 1950 the BIA expanded this program to serve all tribes, and relocation centers were established in several other major cities, mostly in the western United States. Between 1952 and 1960, the program relocated more than thirty-five thousand Indians to urban areas. Relocation was voluntary, but some Indian families reported being strongly pressured by BIA officials to leave the reservations. During the period the program was in operation, a larger number of Indians moved off the reservations on their own, independent of the BIA's efforts. Those who resettled were often not prepared for the culture shock of moving from a rural reservation to a major urban center. Those relocated under the BIA's auspices were given transportation to the city involved, free job training and placement services, free medical care for a year, assistance in obtaining housing, and a one month subsistence allowance. Many discovered, however, that these benefits never materialized, at least not fully.

Few relocated Natives found high-quality, well-paying jobs. However, some of those working in the cities were often better off in strictly economic terms than those who remained on, or returned to, poverty-stricken reservations. Many of the urbanized Indians who adapted best succeeded on their own, not as a result of the BIA's programs. Estimates differ on how many returned to the reservations, and the rates varied for different tribes, but it is generally thought that somewhere between 30 and 60 percent of those relocated returned to the reservations.

Economic Development

Even during the height of the termination era, both Congress and the executive branch agencies sought to promote economic development on the reservations. A secure economic base was thought to be necessary for a tribe to be able to manage its own affairs. In the late 1940s, the BIA developed plans for a long-term economic development effort on the Navajo-Hopi reservations, which became the Navajo-Hopi Rehabilitation Act of 1948. President Truman vetoed the first version of this bill because of concerns about some provisions that transferred jurisdiction over reservation lands to the states, but signed a revised bill in 1950. The bill called for over \$88 million in expenditures over a ten-year period for basic infrastructure improvements, soil and moisture conservation, education, business and industrial development, and job placement assistance for those who wished to leave the reservation. Congress also passed legislation in the 1950s addressing the problems caused to some Indian communities by the creation of federal irrigation projects in the West. As noted below, in the early 1960s, economic development funds from a variety of "New Frontier" and "Great Society" programs also began to reach the reservations. Some of these programs, however, such as dam and hydroelectric power projects, also cost Indians homes and lands.

Health and Education Issues

In July 1955 the programs of the Indian Health Service (IHS) were transferred to the United States Public Health Service. Fifty-nine hospitals and other medical facilities were involved in this transfer. Although significant problems remained, reservation health care improved markedly with this change. Funding for Indian health services increased dramatically; whereas appropriations for Indian health care totaled approximately \$5 million in 1940, funding grew to more than \$24 million in 1955 and more than \$71 million by 1965. The overall death rate for American Indians declined, as did the rate of fetal and infant mortality, and

there was a dramatic decrease in the number of tuberculosis cases and deaths from this disease. In addition to reservation health facilities, the IHS opened urban Indian health centers in several major cities, primarily in the West.

Willard Walcott Beatty was director of Indian education in the BIA under John Collier and remained in this position until 1952, providing constructive leadership even into the early years of the termination era. Beatty encouraged the inclusion of Indian subjects in school curriculum, as well as bilingual education and bilingual texts. However, reforms such as these fell out of favor in BIA schools during the height of the termination movement. Indian Commissioner Dillon Myer tried to put more emphasis on off-reservation boarding schools, as the government had done in the late nineteenth century, in order break down tribal bonds. On the reservations, he accelerated the placement of Indian children in nearby public schools whenever possible. Myer also attacked the Indian Arts and Crafts Board that Collier had created in 1934 to help preserve and pass on the traditional learning of various Indian artists.

As the drive for termination slowed in the late 1950s, more attention was paid to developing better schools on the reservations. Expenditures for remodeling and new school construction increased, but in many cases conditions were so bad that much more was needed, and Congress was unwilling to spend even greater sums.

Toward Self-Determination

Eisenhower's statement in 1956 that no tribe would be terminated from its relationship to the federal government without its permission might be seen as a first step toward the policy of self-determination, which became a characteristic of federal Indian policy in the 1960s. During the presidential campaign in 1960, both Richard M. Nixon and John F. Kennedy made positive statements regarding respect for Indian culture and tribal rights. After his election, Kennedy's choices of Stewart Udall as secretary of the interior and Phileo Nash as commissioner of Indian affairs were both regarded as positive appointments that brought leaders respectful of Indian rights to important policy-making positions. Early in his administration, Kennedy appointed a task force headed by W. W. Keeler, the principal chief of the Cherokee Nation, to make recommendations on Indian policy. Hearings held by the task force revealed the depth of the Native resistance to termination and the desire for economic development and a greater role for tribal governments in decision making.

The reforms suggested by this task force came to be called the “New Trail” in federal Indian policy. As Kennedy’s “New Frontier” reforms and President Lyndon B. Johnson’s “Great Society” programs emerged in the early 1960s, funding for health, education, and economic development programs on many Indian reservations increasingly came not through the traditional channels within the BIA but through programs in other federal agencies. This was not an entirely new development, as the transfer of some health, education, and welfare services for Indians to state and local agencies, or to federal agencies outside the BIA, had been a part of government policies as far back as the early twentieth century. Nash pushed to have Indian reservations covered by the Area Redevelopment Act of 1961, which was designed to help impoverished areas through various economic development programs. He also created the Division of Economic Development within the BIA to try to attract businesses and industry to Indian reservations to provide jobs.

By the early 1960s, public opinion and the will of Congress had brought forth dramatic changes in the approach to federal Indian policy. While elements of paternalism lingered, and bureaucratic inertia often slowed the pace of change, the federal government was clearly evolving a new approach to policy involving the Native peoples of the United States. Termination and relocation were on their way out, thanks to Native activism and the inherent flaws in the policies.

See also *American Indian Chicago Conference*; Beatty, Willard W.; *Bureau of Indian Affairs*; Collier, John; *Education: Boarding Schools*; *Education: Public Schools*; *Education: Reservation Schools*; Eisenhower, Dwight D.; Hoover Commission; *House Concurrent Resolution 108*; *Indian Claims Commission Act*; *Indian Health and Healthcare*; *Indian Reorganization Act of 1934*; Kennedy, John F.; Myer, Dillon S.; Nash, Philleo; *National Congress of American Indians*; *National Indian Youth Council*; *Relocation Program*; Seaton, Fred A.; *Self-Determination*; *Termination and Restoration*; Truman,

Harry S.; *Trust Responsibility Doctrine*; Udall, Stewart L.; *U.S. Indian Policy: Congress and the Executive, 1871–1934*; *U.S. Indian Policy: Congress and the Executive, 1928–1946*; *World War II, American Indians and*.

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BIBLIOGRAPHY

- Brophy, William A., and Sophie D. Aberle, comps. *The Indian, America's Unfinished Business: Report of the Commission on the Rights, Liberties, and Responsibilities of the American Indians*. Norman: University of Oklahoma Press, 1966.
- Burt, Larry. *Tribalism in Crisis: Federal Indian Policy, 1953–1961*. Albuquerque: University of New Mexico Press, 1982.
- Clarkin, Thomas. *Federal Indian Policy in the Kennedy and Johnson Administrations*. Albuquerque: University of New Mexico Press, 2001.
- Drinnon, Richard. *Keeper of Concentration Camps: Dillon S. Myer and American Racism*. Berkeley: University of California Press, 1987.
- Fixico, Donald L. *Termination and Relocation: Federal Indian Policy, 1945–1960*. Albuquerque: University of New Mexico Press, 1986.
- Koppes, Clayton R. “From New Deal to Termination: Liberalism and Indian Policy, 1933–1953.” *Pacific Historical Review*, vol. 46 (November 1977): 543–566.
- Lurie, Nancy Oestreich. “The Indian Claims Commission Act.” *Annals of the American Academy of Political and Social Science*, vol. 311 (May 1957): 56–70.
- Olson, James S., and Raymond Wilson. *Native Americans in the Twentieth Century*. Urbana: University of Illinois Press, 1984.
- Peroff, Nicholas C. *Menominee Drums: Tribal Termination and Restoration*. Norman: University of Oklahoma Press, 1982.
- Philp, Kenneth R. *Termination Revisited: American Indians on the Trail to Self-Determination, 1933–1953*. Lincoln: University of Nebraska Press, 1999.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Rawls, James J. *Chief Red Fox Is Dead: A History of Native Americans since 1945*. New York: Harcourt Brace, 1996.
- Rosenthal, Harvey D. *Their Day in Court: A History of the Indian Claims Commission*. New York: Garland Publishing, 1990.
- Tyler, Lyman S. *A History of Indian Policy*. Washington, D.C.: Bureau of Indian Affairs, 1973.
- Washburn, Wilcomb E. *Red Man's Land, White Man's Law: A Study of the Past and Present Status of the American Indians*. New York: Charles Scribner's Sons, 1971.



U.S. Indian Policy: Congress and the Executive, 1960–

Federal Indian policy underwent enormous change beginning in the late 1960s. The decade saw the quiet end of termination, which had sought to end the status of Indian tribes as sovereign nations, and the 1970s saw the rise of the self-determination era. “Self-determination” constitutes a stronger expression of congressional and executive branch support for the development of tribal governments, reservation economies, and Indian people, as well as recognition of the importance of tribal sovereignty. By 2008 upwards of 90 percent of the employees of the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS), the primary federal agencies charged with implementing and administering federal Indian affairs programs, were of American Indian descent, a dramatic change from the nineteenth and even the first half of the twentieth century. While express federal policy continues to favor tribal self-determination, the 1990s and the first decade of the twenty-first century offered a glimpse of what may be the next era of federal Indian policy as Congress continued to lower federal spending in Indian affairs.

Winding Down the Termination Era

At the beginning of the 1960s, Congress was moving away from the termination era of federal Indian policy, during which it had attempted termination of the federal-tribal relationship. While Congress had ceased enacting additional termination acts, as late as 1967 some members of Congress continued to seek (unsuccessfully) termination of tribes such as the Seneca Indian Nation and the Colville Confederated Tribes. Meanwhile, President John F. Kennedy’s commissioner of Indian affairs, Phileo Nash, oversaw the expansion of Indian affairs programs for education, economic development, employment assistance, and housing, for example. The Lyndon B. Johnson administration took the delivery of some Indian services away from the control of the BIA through the creation of special offices located in other federal agencies. Both the Kennedy and Johnson administrations sought to include Indians and Indian tribes in the large number of federal programs focused on social justice, reducing poverty, and supporting minorities. And by the 1970s, President

Richard M. Nixon had agreed to restore lands to Indians for the first time in American history—Blue Lake to the Taos Pueblo and Mount Adams to the Yakama Nation.

Yet despite the end of the termination era, Congress never addressed many of its harmful impacts, including the massive loss of tribal lands and other assets and the destruction of developing tribal governments. Over time, Congress began to enact “restoration acts,” in which tribes that had been terminated could petition for restoration as a federally recognized tribe. The first, the Menominee Restoration Act in 1973, served as the symbolic end of the termination policy. Other restoration acts also came in case-by-case fashion, with Congress requiring the petitioning terminated tribe to prove continuing tribal status before agreeing to restore it. Some tribes have never been restored, while some tribes’ restorations were ongoing in the first decade of the twenty-first century.

In 1977 the congressionally sanctioned American Indian Policy Review Commission published its Final Report, a mammoth review of all aspects of federal Indian policy, driven in large part by the work and research of American Indian people themselves. Though Congress and the executive branch did not adopt many of the recommendations made in the report, it served as a focal point for tribal advocates for decades to come.

One positive development of the termination era was the galvanization of tribal advocates. During the 1950s the National Congress of American Indians (NCAI) gained strength and influence by fighting the termination acts. In 1961 the NCAI published its “Declaration of Indian Purpose,” the first national statement of Indian policy from a tribal perspective. Also in 1961 the first national meeting of Indian people nationwide, the American Indian Chicago Conference, took place. Later in the decade, the American Indian Movement (AIM) emerged in Minneapolis to advocate for reforms in federal policies.

Indian Self-Determination

In 1968 President Johnson argued for a rejection of the termination era, an end to federal government paternalism in

In one of the largest transfers under the Native American Graves Protection and Repatriation Act (1990), hundreds of Indians march with a truck carrying two thousand skeletal remains of Jemez Pueblo Indian ancestors. Retrieved from Harvard University in 1999, the remains were reburied in Pecos National Historical Park.



Indian affairs, and a new goal of promoting “partnership and self help” (Newton, *Cohen’s Handbook of Federal Indian Law*, 2005). In 1970 President Nixon presented a powerful message to Congress arguing for a new era of tribal self-determination. His message offered several legislative proposals, including the concept of tribal self-governance and support for tribal economic development projects. Both houses of Congress created permanent committees to discuss Indian affairs, although only the Senate Committee of Indian Affairs remained active by 2008.

In 1975 Congress enacted the Indian Self-Determination and Educational Assistance Act. The act directed the secretary of interior to enter into self-determination “contracts” with Indian tribes called “638 contracts,” referencing the public law number of the act, when the tribe requested them. The BIA budget included line items for services provided to Indian tribes, such as identifying or confirming membership or enrollment, tribal courts, law enforcement, social services, or roads maintenance. The act allowed Indian tribes to enter into a 638 contract with the BIA to take over a specific set of these functions themselves, forcing the BIA to transmit the appropriated funds that it would have used to administer the program directly to the tribe. The proposal was not new. The original draft of the Indian Reorganization Act of 1934 included a very similar program, which was defeated by a

concerted effort of the BIA and others who argued that Indian tribes were not competent to handle their own affairs. Congress later expanded the 638 contracting model to Indian health care and Indian housing. The Native American Housing Assistance and Self-Determination Act (1988), for example, turned over hundreds of millions of dollars in federal housing money to tribal housing authorities or other tribally designated housing entities.

In 1988 Congress created a pilot project in which an Indian tribe could petition the secretary to become a self-governance tribe, taking over all of the programs administered by the federal government on behalf of the tribes. Each year the secretary selects up to twenty tribes based on their institutional capacities to handle the administrative burden. The self-governance tribes have been remarkably successful, leading some to argue that these self-governance contracts are a “declaration of independence for tribal governments” (Newton, *Cohen’s Handbook of Federal Indian Law*, 2005). In 1994 Congress made the project permanent.

Indian Civil Rights

In 1968, after years of intermittent hearings, Congress enacted the Indian Civil Rights Act, intending to extend the protections of the Bill of Rights to Indian people. In 1896 the Supreme Court’s decision in *Talton v. Mayes* held that the

Constitution did not apply to Indian tribes. Senator Sam Ervin of North Carolina, a passionate segregationist and opponent of President Johnson's "Great Society" legislative package, pushed the legislation for years. He held hearings over a seven-year period in which dozens of Indians and non-Indians alike presented selective and anecdotal evidence, often taken out of context, that tribal governments engaged in systematic violations of civil rights and that tribal government systems in general were abusive and undeveloped. Many of the hearings touched on the numerous lower court cases following *Talton* in which federal courts refused to apply civil rights protections against tribal government and official defendants. The Indian Civil Rights Act forwarded a slate of American constitutional rights protections that would thereafter apply to tribal governments and people under their jurisdiction. Tribal and federal opposition to the bill forced a few modifications to its list of constitutional rights, such as the elimination of an establishment clause, the right to counsel for indigent defendants, and the right to a grand jury indictment. Of course, many tribes already provided significant civil rights protections to those under their jurisdiction, but Congress was not persuaded.

Other provisions attached to the act remain significant in other contexts. The act limited the criminal punishment that a tribe could impose on those convicted of crimes in Indian Country to a maximum of six months in jail and a \$500 fine. Later amendments in 1986 expanded these limits to one year and \$5,000. The only enforcement mechanism contained in the act, however, was a provision allowing those convicted of crimes in tribal courts to file petitions for writs of *habeas corpus* in federal district court. The intent of Congress appeared to be that the act must be enforced in tribal forums, not federal courts. The legislative history of the act confirms that although Congress intended to extend civil rights protections such as due process and equal protection to tribal communities, it intended for the communities to take those broad legal concepts and interpret them in accordance with tribal custom and tradition. The act had, as a result, the accompanying benefit of legitimizing tribal dispute resolution forums such as tribal courts, encouraging the development of such courts and tribal laws.

The act also amended Public Law 280, which had extended state civil and criminal jurisdiction and laws into Indian Country in several states while allowing other states to opt in, all without tribal consent. The 1968 amendments provided that any other states that desired to take civil and criminal jurisdiction in Indian Country had to obtain tribal consent.

Moreover, the amendments allowed states to give authority back to the tribes. The act also contained provisions requiring the interior secretary to revise Felix S. Cohen's *Handbook of Federal Indian Law*—a model law and order code for tribal governments, including rules regarding the appointment of legal counsel by tribes. The project was originally completed in 1982 under the auspices of the American Indian Law Center, Inc., headed by Philip S. (Sam) Deloria.

Tribal Economic Development and Indian Gaming

Beginning with a provision in the Indian Reorganization Act that authorized Indian tribes to create special federal corporations for the purposes of engaging in business activities, Congress has long advocated that Indian tribes exploit business opportunities as a means to generate revenue to pay for government services. Because most Indian tribes are located in areas where there is no ready tax base (and because the Supreme Court has steadily limited tribal taxation authority over nonmembers), most tribal governments have no other option but to develop their business opportunities, such as they are.

After President Nixon's 1970 message to Congress, it was clear that while federal spending to allow tribes to reach that goal would be a significant factor, the long-term goal of Congress had to be support of tribal business activities that would allow tribes to pay their own way. In 1974 Congress passed the Indian Financing Act and, in 1985, the Indian Tribal Governmental Tax Status Act, to spur tribal economic development, but these measures were underfunded and fell far short of what was required to allow most tribes to generate significant revenues. As early as the late 1960s, enterprising—and desperate—Indian tribes began to open high-stakes bingo facilities with the eventual goal of expanding to Vegas-style casino gaming.

The advent of Indian gaming changed tribal-federal-state relations far beyond any policy of Congress or the executive branch. The federal government under the Jimmy Carter and Ronald Reagan administrations saw that gaming could earn tribes large sums of money, moving them toward self-sufficiency. The Reagan administration, in part following the lead of President Nixon, saw tribal gaming and economic development in general as part of a long-term strategy to replace federal appropriations. The BIA began to approve gaming management and development contracts. The Small Business Administration offered loan guarantees to Indian tribes needing capital to start gaming operations. The Department of Housing and Urban Development began to

fund the construction of multipurpose tribal government structures that could be used as gaming facilities. And the Indian Health Service provided funds and advice on sanitation services for the facilities. By the time the challenges from states and others to Indian gaming reached the Supreme Court in 1987, the federal government had provided so much support to Indian bingo operations that the Court was hard-pressed to find a compelling reason to deny tribes access to gaming. In the 1988 Indian Gaming Regulatory Act, Congress codified the Supreme Court's decision in *California v. Cabazon Band of Mission Indians* (1987), allowing high stakes bingo games without state regulation. However, Indian tribes were required to enter into a formal compacting arrangement with the states before they could begin Vegas-style gaming such as slot machines and poker. In 1996 the Supreme Court in *Seminole Tribe of Florida v. Florida* undermined the delicate political compromise of the gaming act in favor of state governments, but tribes have persevered through negotiation and creativity.

As of 2008 Indian gaming was a more than \$26 billion business, but the benefits of large scale gaming are poorly distributed. A few dozen tribes located near urban areas are earning the vast majority of the revenues, while most others have small profit margins. In fact, only about half of Indian tribes engage in gaming at all. Despite these limitations, even modest gaming tribes now have the revenue to provide significant governmental services. With the presence of the National Congress of American Indians and the National Indian Gaming Association, Indian tribes now have a voice in national politics and have been able to defeat most harmful congressional bills since the early 1990s.

Indian Culture and Education

Federal Indian policy since 1960 has seen a dramatic reversal of long-standing policies seeking either directly or indirectly to assimilate Indians into the larger American society. In the 1960s Congress began to expand federal programs for Indian education, Indian child welfare, Indian health care, and tribal cultural property. Some of these programs have been successful, while others have been victims of a lack of funding or legal machinations.

Federal legislation intended to improve Indian educational opportunities has not been very successful, in large part due to the failure of Congress to appropriate sufficient funding. Although President Bill Clinton acknowledged a federal duty to Indian education, progress has been slow. The implementation of the George W. Bush administration's No

Child Left Behind Act of 2001 has been nothing short of a disaster for Indians, for the law mandated school improvement targets without providing the resources to achieve them. In the realm of higher education, Congress's support of tribal community colleges through the Tribally Controlled College or University Assistance Act has been excellent, although federal appropriations per student have dropped in recent years.

In 1978 Congress enacted the Indian Child Welfare Act. This statute, one of the very few times Congress has ever stripped jurisdiction from state courts, mandates that any state court case involving an adoption or other action that could lead to the termination of parental rights of an Indian child must be transferred to a tribal court unless certain narrow exceptions are met. In any event, state courts must provide notice to Indian tribes with an interest in the child and offer them a chance to intervene. Congress had held hearings for years over the serious problem of state courts and social service agencies placing Indian children in non-Indian homes and terminating Indian parental rights as a matter of policy. Some experts testified that between 25 and 50 percent of all Indian children had been removed from their homes, leading to significantly increased drug and alcohol abuse and suicide rates for these children. The resistance of state courts, in particular, as well as conflicting federal and state statutory authority has hindered the efforts of Indian tribes to take control over the placement and adoption of their children in many instances. Because Congress did not authorize federal agency involvement or federal court jurisdiction over these cases, tribes must still adjudicate many cases in state courts, some of which remain hostile to, or ignorant of, tribal cultures.

In 1976 Congress enacted the Indian Health Care Improvement Act, which was designed to expand health care services to both urban and reservation Indians under the administration of the IHS. The work of the IHS has been exemplary, with Native mortality rates and infant mortality rates declining in significant numbers, but Indians still have the worst health of any demographic in the United States. According to the United States Civil Rights Commission, "persistent discrimination and neglect continue to deprive Native Americans of a health system sufficient to provide health care equivalent to that provided to the vast majority of Americans" (United States Commission on Civil Rights, *Broken Promises*, 2003).

Congress has taken several steps to prevent the continuing loss of tribal cultural property and languages since 1960,

beginning with the American Indian Religious Freedom Act. The act, a statement of policy that is unenforceable, states that it is the policy of the federal government not to interfere with Indian religious practices and sacred sites located on federal or tribal lands. In 1996 President Clinton issued an executive order requiring federal agencies to consult with Indian tribes before engaging in activities that might interfere with tribal religious practices. In 1990 Congress passed the Native American Graves Protection and Repatriation Act (NAGPRA), requiring federal agencies and museums to conduct an inventory of Indian remains and sacred objects in their possession. If an Indian tribe could prove that it was the origin of the remains or objects, then the agency or museum was obligated to repatriate them. But like many congressional initiatives in Indian affairs since 1960, this statute is limited in its application and subject to circumvention by federal agencies that have convinced federal courts to interpret the statute narrowly. Moreover, NAGPRA only applies to federally owned lands, leaving remains and sacred sites located on private or state-owned lands subject to the whims of those owners.

Other Federal Policies

Prior to the 1960s, Congress rarely incorporated Indian tribes into the national legislative picture, but that began to change, for example, in the 1964 Civil Rights Act, which exempted Indian tribes from its provisions in order to protect Indian preference in employment and contracting in Indian Country. Several environmental and employment statutes now include provisions authorizing Indian tribes to participate in their programs or exempting tribes from them, but many others are silent as to their application to Indian tribes. In these cases where Congress's intent is unclear, federal agencies make conflicting interpretations as to their application. For example, the National Labor Relations Board had decided in the 1970s that the National Labor Relations Act of 1935 did not apply to tribal businesses, but reversed its interpretation in 2005. The Equal Employment Rights Commission, long supportive of Indian preference in employment, began to bring employment discrimination suits against businesses located in Indian Country.

See also *American Indian Chicago Conference*; *American Indian Movement*; *American Indian Policy Review Commission*; *American*

Indian Religious Freedom Act of 1978; *Black Hills*; *California v. Cabazon Band of Mission Indians*; *Gaming*; *House Concurrent Resolution 108*; *Indian Child Welfare Act*; *Indian Civil Rights Act*; *Indian Finance Act*; *Indian Gaming Regulatory Act*; *Indian Reorganization Act*; *Indian Self-Determination and Education Assistance Act*; *Indian Tribal Government Tax Status Act*; *Johnson, Lyndon B.*; *Menominee Restoration Act*; *Morton v. Mancari*; *Nash, Philileo*; *National Congress of American Indians*; *National Indian Gaming Commission*; *National Indian Youth Council*; *Native American Graves Protection and Repatriation Act*; *Nixon, Richard M.*; *Public Law 280*; *Self-Determination*; *Seminole Tribe of Florida v. Florida*; *638 Contracts*; *Taos Pueblo of Blue Lake*; *Termination and Restoration*; *Tribally Controlled Community College Act*.

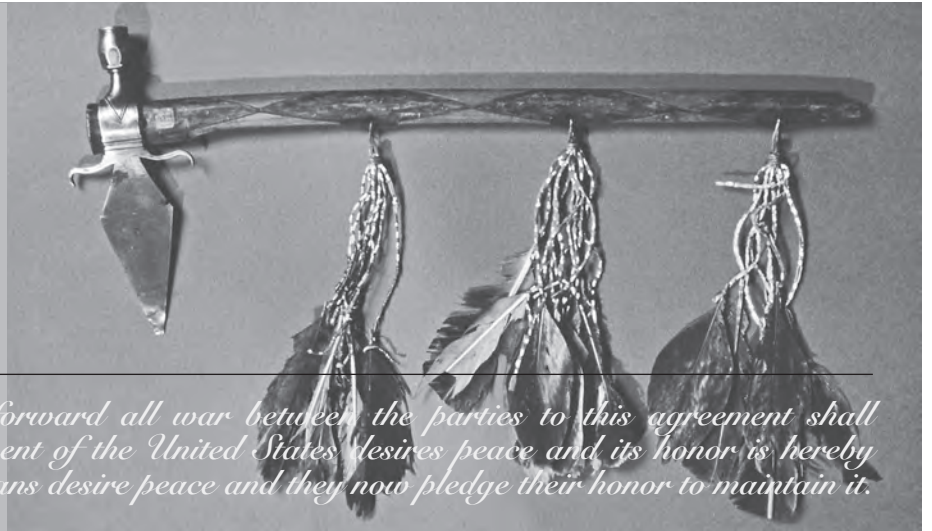
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BIBLIOGRAPHY

- American Indian Policy Review Commission. *Final Report*. Washington, D.C.: United States Government Printing Office, 1977.
- California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987).
- Cornell, Stephen. *Return of the Native: American Indian Political Resurgence*. Oxford: Oxford University Press, 1988.
- Deloria, Philip S. "The Era of Indian Self-Determination: An Overview." In *Indian Self-Rule: First Hand Accounts of Indian-White Relations from Roosevelt to Reagan*, edited by Kenneth R. Philp, 191–207. Logan: Utah State University Press, 1995.
- Deloria, Vine, Jr., ed. *American Indian Policy in the Twentieth Century*. Norman: University of Oklahoma Press, 1985.
- Deloria, Vine, Jr. *Custer Died for Your Sins: An Indian Manifesto*. New York: Macmillan, 1969.
- Fletcher, Matthew L. M. "Bringing Balance to Indian Gaming." *Harvard Journal on Legislation*, vol. 44, no. 1 (2007): 39–95.
- . "In Pursuit of Tribal Economic Development as a Substitute for Reservation Tax Revenue." *North Dakota Law Review*, vol. 80 (2004): 759–807.
- . "The Supreme Court and Federal Indian Policy." *Nebraska Law Review*, vol. 85, no. 1 (2006): 121–185.
- Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, NJ: LexisNexis, 2005.
- Prucha, Francis Paul. *Documents of United States Indian Policy*, 3rd ed. Lincoln: University of Nebraska Press, 2000.
- Riley, Angela R. "Sovereignty and Illiberalism." *California Law Review*, vol. 95 (2007): 799–848.
- Singel, Wenona T. "Labor Relations and Tribal Self-Governance." *North Dakota Law Review*, vol. 80 (2004): 691–730.
- United States Commission on Civil Rights. *Broken Promises: Evaluating the Native American Health Care System*. September 2004, www.usccr.gov/pubs/nahealth/nabroken.pdf.
- . *A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country*. July 2003, www.usccr.gov/pubs/na0703/na0204.pdf.
- Wilkinson, Charles F. *Blood Struggle: The Rise of the Modern Indian Nations*. New York: W. W. Norton & Co., 2005.

A-Z ENTRIES

A



Article 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they now pledge their honor to maintain it.

Abbott, Lyman

Lyman Abbott (1835–1922) was a Congregationalist minister, advocate of social reform, and vocal proponent of the allotment of Indian lands and the dissolution of the reservations. Abbott had two primary platforms from which to disseminate his views on Indian policy: the Lake Mohonk Conference of Friends of the Indian, of which he was an active member, and the *Outlook* (originally called the *Christian Union*), the journal he edited from 1876 until his death. Combining a socially active form of Christianity with a belief that economic and social competition was morally good for everyone, Abbott argued that American Indians could survive in an evolving American society only through self-sufficiency and ambition. This required, in his eyes and those of many other Protestant reformers, the breaking up of reservations, the abolishment of treaties, the closing of Indians schools, and the eventual withdrawal of all government aid to Indians. He argued in editorials for the *Outlook* that if many Indians suffered as a result of such changes, then that was simply the way of all progress. Abbott's views were generally representative of those of the attendees of the Lake Mohonk Conference, a largely Protestant group of reform-minded individuals for whom the abolition of tribalism and the resultant shift from tribal control of land and property to private ownership were essential first steps in the readying of Indian people for citizenship. Abbott was one of the most outspoken and persistent of the reformers in placing capitalism at the heart of a Christian and morally sound American society.

See also *Lake Mohonk Conferences; U.S. Indian Policy: Congress and the Executive, 1871–1934.*

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BIBLIOGRAPHY

- Abbott, Lyman. *Christianity and Social Problems*. New York: Johnson Reprint Corp., 1970.
- Brown, Ira V. *Lyman Abbott, Christian Evolutionist: A Study in Religious Liberalism*. Cambridge, Mass.: Harvard University Press, 1953.
- Prucha, Francis Paul, comp. *Americanizing the American Indians: Writings by the "Friends of the Indian," 1880–1900*. Cambridge, Mass.: Harvard University Press, 1973.

Aboriginal Indian Title

In 1497, when John Cabot reached Newfoundland under a charter from King Henry VII of England, he declared to have “discovered” regions of America north of what Spain had claimed. By unilateral proclamation the English sovereign held an absolute “interest” in all aboriginal lands. European colonization of various regions of the world ignited a legal debate that continues into the twenty-first century: What allowed one nation to claim possession of lands that belonged to someone else?

The answer is the doctrine of discovery. European Christian countries claimed legal rights over indigenous non-Christian peoples immediately upon their “discovery” by Europeans. This became the legal grounds for European claims of sovereignty over Native peoples and lands. In the Proclamation of 1763, British colonizers in North America recognized that indigenous communities had inhabited and possessed their lands before the establishment of colonial governments. This preexisting collective Native property right was known as aboriginal Indian title. It acknowledged that tribal groups had a possessive interest, known as a usufruct right, to use and occupy land. They retained this right until it was extinguished explicitly by a legal settlement

or an agreement (such as a treaty) with the British crown or successor nation-state (the United States or Canada).

In 1783 the Treaty of Paris finalized the independence of the British North American colonies. The new United States recognized American Indians as prior occupants, but also claimed absolute sovereignty over all Native lands based upon the unbroken continuity from the English doctrine of discovery. The U.S. Constitution and Supreme Court adopted these fundamental legal precepts. In *Johnson v. M'Intosh* (1823), Chief Justice John Marshall observed that European Christian nations could assert superior dominion over Indian lands, but Native Americans retained a right of occupancy. After repeating false and ill-informed characterizations of Native culture espoused by European theorists, Marshall asserted that "conquest gives a title which the courts of the conqueror cannot deny." Ignoring the fact that almost all Indian land obtained by Europeans in the colonial era derived from purchase rather than conquest, he referred to aboriginal title as an "extravagant pretension." While the Court acknowledged the Indian "use right" of occupancy as a property right, this ruling impaired Native Americans' land rights and diminished their sovereignty.

This landmark decision put American Indian land rights on a tenuous legal foundation. In *Cherokee Nation v. Georgia* (1831), the Supreme Court declared that the United States claimed "a title independent of [Indian] will." And despite the assertion in *Mitchell v. United States* (1835) that the "Indian right of occupancy is considered as sacred as the fee-simple of the whites," this was never the case. Indian title was a lesser right than the complete ownership property interest of fee simple title. In addition, tribal groups could only sell their land titles to the federal government. Native American communities, without their consent, lost a very valuable property right to sell land to whomever they chose for whatever amount they wanted.

From its inception, the concept of aboriginal Indian title has been interpreted in different ways by judges and government officials, sometimes to bolster Native land claims, and sometimes to undermine them. On the one hand, as noted in *Johnson v. M'Intosh*, "the exclusive right of the United States to extinguish Indian title has never been doubted. And whether it be done by treaty, by the sword, by purchase, by the exercise of complete dominion adverse to the right of occupancy, or otherwise, its justness is not open to inquiry in the courts." On the other hand, in *Worcester v. Georgia* (1832), Chief Justice Marshall affirmed "Indian nations as distinct political communities, having territorial boundaries, within

which their authority is exclusive, and having a right to all the lands within those boundaries, which is not only acknowledged, but guaranteed by the United States."

Unfortunately for Native Americans, the positive affirmation of Indian title has rarely been sustained. While aboriginal title acknowledges that tribal groups have some legally recognized interest in their lands, the outcome of Native American land claim and compensation cases hangs on the varying interpretations of federal judges. Sometimes courts recognize Indian title as a legally compensable interest, but more often they have struck down Native American land claims, as was the case in the 1955 decision *Tee Hit Ton Indians v. United States*. The vagaries of aboriginal Indian title provide a key to understanding how federal Indian law and policy has favored non-Indian interests at the expense of Native American and Alaska Native land rights.

See also *Alaska Native Claims Settlement Act of 1971*; *Cherokee Nation v. Georgia*; *Discovery, Doctrine of*; *Johnson v. M'Intosh*; *Land Claims Settlement Acts*; *Mitchell v. United States*; *Paris (1783), Treaty of*; *Proclamation of 1763*; *Pueblo Lands Act*; *Seneca Land Rights*; *Tee-Hit-Ton Indians v. United States*; *Trust Lands*; *Worcester v. Georgia*.

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BIBLIOGRAPHY

- Johnson v. M'Intosh*, 21 U.S. 543 (1823).
 McNeil, Kent. *Common Law Aboriginal Title*. New York: Oxford University Press, 1989.
 Robertson, Lindsay G. *Conquest by Law: How the Discovery of America Dispossessed Indigenous Peoples of Their Lands*. New York: Oxford University Press, 2005.
 Williams, Robert A., Jr. *The American Indian in Western Legal Thought: The Discourses of Conquest*. New York: Oxford University Press, 1990.

Abourezk, James

James G. Abourezk (1931–) was a prominent advocate for Native American interests in the United States Congress in the 1970s. Born to Lebanese immigrant parents, he grew up on the Rosebud Sioux reservation in South Dakota. He served in the U.S. House of Representatives (1971–1973) and Senate (1973–1979). Abourezk, a Democrat, was one of the few members of Congress with direct personal experience with Indian affairs, and he often spoke out in behalf of Indian interests.

In 1973 Abourezk helped negotiate an end to the Indian protest occupation of Wounded Knee. That same year, he introduced Senate Joint Resolution 133, which provided for

a federal commission to review all aspects of U.S. Indian policy. The bill led in 1975 to the creation of the American Indian Policy Review Commission, which established eleven task forces to conduct extensive reviews of federal policy areas, such as the federal-tribal relationship, tribal governments, Indian education, Indian health, and resource development. The commission submitted 206 recommendations to Congress in 1977, most of which did not get congressional approval. Among them was a call to replace the Bureau of Indian Affairs (BIA) with an independent Indian agency that would contract directly with tribes for the same services then provided by the BIA. The commission also recommended specific criteria for the formal recognition of tribes not then recognized by the federal government. In response, the Senate established the Select Committee on Indian Affairs and Congress adopted the recommended recognition criteria. Abourezk, who served as chair of the Select Committee, was also a strong supporter of the American Indian Religious Freedom Act of 1978.

See also *American Indian Freedom of Religion Act of 1978; American Indian Policy Review Commission; Indian Child Welfare Act; Wounded Knee (1973), Occupation of.*

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BIBLIOGRAPHY

- Abourezk, James G. *Advise and Dissent: Memoirs of South Dakota and the U.S. Senate*. Chicago: Lawrence Hill Books, 1989.
- Castile, George Pierre. *Taking Charge: Native American Self-Determination and Federal Indian Policy, 1975–1993*. Tucson: University of Arizona Press, 2006.

Adams, Hank

Hank Adams (1944–) earned a reputation as an “activist’s activist” for his tireless efforts to advance tribal sovereignty. Born on the Fort Peck reservation in Montana, Adams grew up on the Quinault reservation in western Washington and began his career fighting for Northwest Indian fishing rights. As an organizer for the National Indian Youth Council, he planned “fish-ins” to protest state regulation and arranged for the participation of actor Marlon Brando, whose arrest helped draw national media attention to the controversy. In 1971 Adams was shot by an unknown assailant while tending nets on the Puyallup River, but he recovered and went on to participate in the major actions of the national Red Power movement, including the 1969 occupation of Alcatraz and the 1972 Trail of Broken Treaties caravan to Washington, D.C. He wrote but never took credit for the famous “Twenty

Points” that the caravan participants presented to the Nixon administration, demanding the full recognition of tribal sovereignty and a return to bilateral treaty relations with the U.S. government. He then helped negotiate compromises that ended the ensuing occupation of the Bureau of Indian Affairs building in Washington, D.C., and the 1973 standoff at Wounded Knee. He also participated in the American Indian Policy Review Commission during the mid-1970s and has remained active in the ongoing campaign to make self-determination a meaningful concept for Native Americans.

See also *Alcatraz Island, Seizure of (1969); American Indian Policy Review Commission; National Indian Youth Council; Trail of Broken Treaties; Wounded Knee (1973), Occupation of.*

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BIBLIOGRAPHY

- Harjo, Suzan Shown. “Harjo: Hank Adams, an Unassuming Missionary.” *Indian Country Today*, January 6, 2006.
- Smith, Paul Chaat, and Robert Allen Warrior. *Like a Hurricane: The Indian Movement from Alcatraz to Wounded Knee*. New York: New Press, 1996.
- Wilkinson, Charles. *Blood Struggle: The Rise of Modern Indian Nations*. New York: W.W. Norton, 2005.

Adams, John Quincy

John Quincy Adams (1767–1848), who served as president of the United States from 1825 to 1829, often influenced U.S. Indian policy during his long political career. In most of his political posts, Adams dealt with issues of Native land sovereignty, treaty policy, and removal. By the end of his time in public service, he had become a severe critic of the United States’s removal policy.

Early in his political career, Adams agreed with those who wanted to extinguish Indian land rights. When he negotiated the Treaty of Ghent (1814), which ended the War of 1812, he resolutely denied Britain’s suggestion of creating a permanent Indian nation in the old Northwest. As secretary of state under President James Monroe, he defended Andrew Jackson’s execution of Seminole prisoners without trial in Florida.

The conflict between the state of Georgia and the Creek Indians in the 1820s first caused Adams to scrutinize Indian policy. Tensions between the two began long before Adams took office. In 1802 the federal government agreed to remove all Creeks (and Cherokees) from the state. However, when Adams assumed the presidency in 1825, the Creeks

still remained in Georgia. During that year, a small faction of Creeks led by William McIntosh ceded all of their lands to Georgia in the Treaty of Indian Springs. However, McIntosh had accepted a bribe and was related to George Troup, the governor of Georgia. For these reasons, Adams viewed the treaty as fraudulent and ordered new negotiations. The Treaty of Washington (1826) replaced the previous treaty and allowed the Creeks to remain on their lands until 1827.

The situation with the Creeks was important to Adams's evolving view of Native Americans for two reasons. First, he refused to support Georgia's aggressive removal pressure, instead insisting that removal should be voluntary. Many in the South and West strongly objected to this view. Second, the fraudulent nature of the Creek treaties caused Adams to question federal removal policies in general. Despite his realization that government policies were not always fair to the Indian people, however, he never wavered in his belief that Native Americans needed to adopt civilized ways and assimilate into American society.

Adams continued to challenge the removal policy for the rest of his career. Although he had not yet been elected to the House of Representatives when the vote was taken, most historians agree he would not have supported the Indian Removal Act of 1830. Moreover, Adams backed the Cherokees in their fight against removal from Georgia by presenting petitions and presiding over a day-long debate in their favor. In 1840 he opposed additional funding for the Second Seminole War. Finally, in 1841, Adams was offered the chairmanship of the House Indian Affairs Committee. By this time, he was so disillusioned with federal Indian policy that he turned it down.

See also *Ghent (1815), Treaty of; Indian Removal Act (1830); McIntosh, William; Second Seminole War; War of 1812.*

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BIBLIOGRAPHY

- Parsons, Lynn Hudson. *John Quincy Adams*. Madison, Wis.: Madison House, 1998.
- . "A Perpetual Harrow upon my Feelings: John Quincy Adams and the American Indian." *The New England Quarterly*, vol. 46, no. 3 (September 1973): 339–379.
- Remini, Robert V. *John Quincy Adams*. New York: Times Books, 2002.
- Viola, Herman J. *Thomas L. McKenney, Architect of America's Early Indian Policy: 1816–1830*. Chicago: Sage Books, 1974.

Agriculture and Agricultural Policy

Agriculture has always played a central role in U.S. federal Indian policy. Influenced by ideas of social evolution and the benefits of agrarian life, federal officials ignored the existing agricultural practices of American Indians and imposed Western ones upon them. Such policy endeavors often failed and fractured American Indian communities. Officials often neglected to take into account the environmental restrictions of the Native land bases, and their efforts frequently represented a land grab rather than a sincere effort to assist American Indians in promoting their economic and social development.

Origins of Agricultural Policy, 1780–1840

The origin of agricultural policy dated to the beginning of the Republic. President Thomas Jefferson was perhaps the most well-known advocate of agriculture. Jefferson subscribed to the idea that societies followed a similar evolutionary path. Civilizations developed from hunters and gatherers to pastoralists or livestock herders and finally to agriculture. For Jefferson, American Indians represented the lowest level of human progress—the hunters. However, Jefferson believed that Indians could change. By introducing agriculture to them, Jefferson hoped to put them on the proper path of social development.

Such ideas were extremely popular in the United States. First, introducing Indians to agriculture was seen as representing a humanitarian solution to the "Indian problem." Beginning with President George Washington and his secretary of war, Henry Knox, federal officials sought a policy of "expansion with honor." Teaching American Indians to farm was kindhearted and cheaper than conducting bloody and expensive wars. Moreover, the American Revolutionary War (1775–1783) had nearly bankrupted the nation. Transforming Indians into farmers promised to open land to American farmers, providing a source of revenue. Jefferson reasoned that hunting peoples required large amounts of land in order to create a productive economy. Farming, in contrast to hunting, more efficiently used the American landscape. Once Indians had transformed into farmers, they would possess surplus lands, which he believed they would gladly sell to the United States.

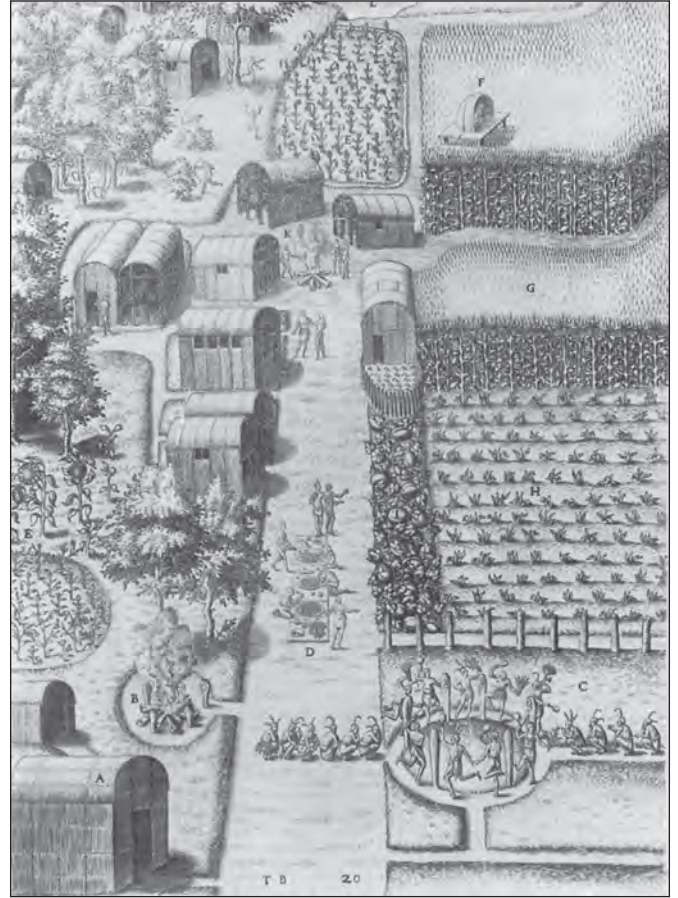
For centuries before European contact, Native peoples from the Southwest to the eastern Woodlands extensively

farmed. Most American Indians grew what they referred to as the Three Sisters: corn, beans, and squash. The development of agriculture permitted Indians to live in concentrated settlements and conduct trade across the entire continent. American Indian oral traditions noted the cultural importance of agriculture. Many Natives recognized a spiritual figure named Corn Mother, who brought corn and the knowledge to grow it to the people. Often, she took corn from her skin and planted it in the ground. Further, the figures of Corn Mother and the Three Sisters revealed the kinship connections between the people, their crops, and their land. Agricultural goods and humans were related and dependent upon each other.

Although American Indians developed sophisticated irrigation networks and introduced crops to the Euro-American diet, thus sustaining European immigrants for centuries, American officials ignored these practices and imposed western ideas about agriculture on farming Indians. Unlike Europeans, women primarily farmed in American Indian communities. They possessed the knowledge needed to cultivate crops and provided the work to plow fields and harvest crops. When Europeans saw this division of labor, they described Indian women as “drudges” and Indian men as lazy. American agricultural policy intended to put Indian men to work in the fields and Indian women to work in the home. In addition to changing the Indian division of labor, U.S. agricultural policy altered Native land tenure. While tribal nations claimed specific land bases, individual Indians used communal agricultural lands. However, American agricultural policy sought to implant ideas about private land ownership among Indians.

Beginning in the late 1780s, the United States promoted agricultural development among the eastern Indian nations. In the Treaty of New York (1790), the United States pledged to provide farming tools and domesticated livestock to the Creek Nation. Missionaries also promoted agriculture among American Indians. In 1798 Quaker missionaries established a demonstration farm near a Seneca town under the leadership of Cornplanter. The Quakers provided agricultural implements and instruction to the Senecas. However, the Senecas stiffly resisted these efforts. Seneca men objected because agricultural work contradicted their ideas about masculinity. Moreover, Seneca women refused to confine their economic activities to the home. Instead, they declared that they would continue to farm, despite the Quakers’ best efforts.

In the early nineteenth century, some agricultural efforts, especially in the Southeast, proved successful. Beginning in



A central tenet of U.S. policy toward Indians encouraged the teaching of agriculture, but an engraving by John White of the town of Secota (North Carolina) in 1585 illustrates that many Indians already followed an agrarian lifestyle, though it differed from Western practices.

1802, Congress authorized \$15,000 to promote the “civilization” plan of Benjamin Hawkins, an American Indian agent working among the Creek. Hawkins used the money to introduce domesticated livestock; fences; tools of husbandry; and new agricultural crops, including peaches, flax, rice, wheat, barley, and a variety of fruits and cotton, to the so-called Five Tribes—the Creeks, Cherokees, Choctaws, Seminoles, and Chickasaws. Many southeastern Indians enthusiastically participated in agricultural development. Creek and Cherokee men, for instance, became the primary farmers in their respective communities, challenging the matriarchal nature of their societies. Moreover, many southeastern Indians adopted private property. Creeks fenced in their crops and purchased locks to protect their belongings. Finally, some southeastern Indians adopted the institution of slavery and the ownership of African Americans. The Creek leader Alexander McGillivray, for example, died in 1793 and

bequeathed sixty slaves to his family. By the 1830s the social and agricultural character of some southeastern Indians resembled that of their white Southern neighbors.

The federal policies that emphasized agriculture divided American Indian communities in the late eighteenth and early nineteenth centuries. In the Ohio Valley, Quakers established a demonstration farm in the Shawnee town of Wapakoneta, which was under the leadership of Black Hoof. The Shawnee prophet, Tenskwatawa, accused some of Black Hoof's followers of witchcraft because of their ties with the United States and its agricultural policies. Tenskwatawa's followers carried out the execution of some of these "witches," demonstrating the danger some American Indians faced when they adopted aspects of American agricultural policy.

Although the southeastern and northeastern tribes practiced similar agricultural practices as their white counterparts, this failed to protect them from the forced removal from their homelands to Indian Territory beyond the Mississippi River. While the removal opened land for the agricultural expansion of the American South and Midwest, it also forced American Indians to adjust to life in Indian Territory. Most adopted a subsistence-oriented agricultural economy; others reestablished their plantation slavery operations. Chickasaw farmers, for instance, purchased black slaves and grew large acreages of corn and cotton. By the beginning of the American Civil War (1861–1865), the Five Tribes had rebuilt their lives and agricultural economies in Indian Territory.

Agriculture and Indian Policy, 1850–1887

Beginning in the 1850s, American westward expansion facilitated a change in federal Indian policy. Rather than removing Indians west of the Mississippi River, federal officials concentrated them on smaller plots of land called reservations. The officials gravitated to this policy because once relocation was complete they were able to promote agricultural development to a captive Indian audience. The reservation, then, became a laboratory of social and economic change. It was believed that the successful agricultural development of the reservation would also produce self-sufficiency among American Indians. Reservation Indians, in theory, could wean themselves from government rations and annuities and produce for themselves.

In order to promote farming on Indian reservations, the federal government offered agricultural implements, seed, and fencing materials. Unfortunately, plows and hoes were often broken, worn out, or inadequate in number. Addi-

tionally, the federal government rarely provided enough seed to Indian farmers. Finally, the environmental conditions in the American West—grasshoppers, drought, and poor soils—made Native farming difficult. Still, some Indians produced thriving agricultural enterprises on reservations and were able to offset limited government expenditures. The multiple Indian nations living on Oregon's Grande Ronde reservation used farming to add to their food supplies and adapt to changing reservation conditions.

The Allotment Era, 1887–1934

By the 1880s federal officials expressed disappointment with American Indian agricultural development. Policy makers had hoped that reservations would undermine tribal identities and promote individualism and agricultural development among Natives. However, the removal policy failed to achieve these changes because the Indians resisted these efforts. To combat the ineffectiveness of previous policies, the officials of the Office of Indian Affairs (OIA), later the Bureau of Indian Affairs (BIA), believed that if they transformed Native environments they could convert American Indians.

Education programs established by the U.S. government represented an effort to achieve this goal. In the late 1870s, off-reservation boarding schools (the brainchild of former military officer Richard Henry Pratt) began to be established. Indian children were removed from their reservation homelands and placed in these far-away schools. Pratt located the first off-reservation boarding school in Carlisle, Pennsylvania, but later officials established schools in Nebraska, Oregon, Nevada, Kansas, and California. The boarding schools offered basic educational programs and devoted half of the day to vocational education. School curriculum emphasized farming, farm machinery, and related programs of study. Students had to pass a series of tasks in order to advance in each unit. Boarding schools also featured an "outing program," in which school administrators placed Indian students on farms during the summer. These students learned to work farms, applied their vocational education, and interacted with white Americans. The initial goal of the outing program was to assimilate Indian students into the American culture, but as the program moved west it became simply cheap child labor for western farmers. At California's Sherman Indian Institute, students worked for local farmers by picking oranges, lemons, and other citrus fruits.

In addition to boarding schools, federal officials introduced the policy of allotment, or giving private land plots to

individual Indian heads of household. In 1887 the U.S. Congress passed the General Allotment Act (commonly referred to as the Dawes Act), which permitted the U.S. president to select reservations for allotment. Then, government officials surveyed the reservations and divided them into sections. Once officials completed the survey, allotting agents distributed plots of land (usually 160 acres each) to male heads of household. The federal government held these land allotments in trust for twenty-five years. At the end of the trust period, Indians received a fee patent to their lands and U.S. citizenship. If farming a particular reservation was not possible, Indians received larger allotments of 320 acres for grazing livestock.

The allotment policy was extremely popular among non-Indians. Social reformers believed that the ownership of private property would lead to assimilation. Prospective white farmers were pleased that the government opened surplus lands for sale after allotment was complete. Railroad companies also stood to gain new lands, on which they could build new rail lines and thus open more of the country to industrial and agricultural development.

Perhaps surprisingly, some American Indians supported allotment. Though not happy to adopt the principles of private property and agriculture, Hupas, Omahas, Jicarilla Apaches, and Grand Ronde Indians believed allotment ensured control over their reservation homelands and offered protection against the greedy white ranchers. Others viewed agreeing to allotment as a way to demonstrate their apparent acceptance of government demands. By pledging support for allotment, Indian leaders hoped to gain favor with agents and relieve many of the pressing needs facing their constituencies.

Other Natives resisted allotment, especially in Indian Territory. In March 1886 representatives of thirteen Indian nations gathered in Eufaula to protest allotment, claiming it threatened their land bases and economies. After allotment became law, Caddo Indian chief Jake and Standing Bear, a Kiowa, went to Washington, D.C., and met with the secretary of the interior. These men argued that allotment undermined the economic base of Indian nations in Indian Territory, but their words were ignored. In 1892 congressional commissions negotiated eleven separate agreements—known collectively as the Jerome Agreement—with Native nations in Indian Territory that ceded fifteen million acres to the public domain. In 1901 Kiowa Lone Wolf led a final effort to resist allotment. Claiming that the Jerome Agreement violated the Treaty of Medicine Lodge Creek of

1867 (which said that three-fourths of Kiowa adult males had to assent to land cessions), Lone Wolf led a lawsuit against the commissioner of Indian affairs, Ethan Hitchcock. The case went to the Supreme Court, and in 1903 the Court ruled in *Lone Wolf v. Hitchcock* that Congress had the power to abolish treaties with American Indians and impose policy directives on them.

Almost as soon as Native Americans received their allotments, the federal government divested them of their land. Beginning in 1891 the United States permitted Indians to lease their allotments to non-Indians. That year, the United States Congress also allowed agents to lease the land of elderly or disabled allottees. OIA officials believed that white farmers served as good examples to Indians. By observing the actions of white farmers, Indians could see and then incorporate civilized ways. Moreover, many officials believed that white farmers were better prepared, both in knowledge and finances, to bring “wild” or unfarmed lands into cultivation. The resulting leasing policy demonstrated one of the most glaring problems with allotment. In the late nineteenth century, it was problematic for any farmer to make a living from 160 acres. Often it was not individual white farmers that were purchasing or leasing Indian allotments, but corporate farms or large cattle ranchers.

Pressures to open Indian lands to white settlers led to the passage of the Burke Act in 1906. It permitted the secretary of the interior to grant fee patents to “competent” American Indians before the end of the twenty-five year trust period. It also allowed Indians to sell all or parts of allotments that they had inherited. In order to hasten the process of granting Indians fee patents, the commissioner of Indian affairs sent “competency commissions” to reservations. These commissions decided which Indians were competent and then granted them their fee titles. Often, the amount of Indian ancestry an individual possessed, rather than farming ability, determined one’s competency. Government officials frequently granted fee patents to those with less than “one-half Indian blood.” The secretary of the interior also assumed more control of Indian lands. Laws granted the secretary the power to determine heirs to allotments and then authorized the sale of inherited allotments without the permission of the Indians. Finally, local white businessmen and farmers swindled American Indians out of their allotments. In some instances, local judges assumed guardianship over American Indian allottees and allotments. After charging their “wards” extremely high legal fees, the judges took Indian land as financial compensation. By 1934, when allotment ended,

American Indians had lost more than 70 percent of their land base.

Ironically, even as the federal government was seeking to end tribal ownership of Indian lands, it continued to promote Indian farming and agricultural development. In the mid-1910s, the Office of Indian Affairs sponsored agricultural fairs on reservations and offered cash prizes for Indians with the best crops. Indians enjoyed the fairs because they offered an opportunity for socialization and ceremonies. The federal government also urged Indians to farm during World War I (1914–1918). Although many Indians complied, the war also increased efforts to lease Indian lands. During the war the government lengthened the term of leases to five years in order to put land into what it considered more productive hands.

A New Era in American Indian Agricultural Policy, 1928–1945

By the late 1920s, many observers of Indian affairs questioned the agricultural policy of the U.S. In 1928 the government published the *Meriam Report*, an 872-page study of the condition of American Indians, which condemned many aspects of federal Indian policy. It argued that non-Indian government farmers failed to promote farming on reservations because they were poorly equipped to teach Indians how to farm. The report also criticized the government's attempts at Native education, which neglected to teach Indians how to develop their own farms. Finally, the report blamed the allotment policy for the poor condition of Indian agriculture. It was apparent that the Indian policies of the past had failed and the time had arrived for a new approach.

The Great Depression ushered in dramatic changes in agriculture and federal Indian policy. Across the United States, agricultural prices declined steeply, harming Indian and non-Indian farmers alike. The election of Franklin D. Roosevelt offered hope to a nation crippled by the Depression. In 1932 President Roosevelt appointed John Collier as commissioner of Indian affairs. Collier created an "Indian New Deal" to alleviate problems on Indian reservations. He emphasized cultural pluralism and cooperative economic ventures. In the early 1930s, Collier persuaded public works officials to create programs on reservations. The most influential public works project was the Indian Emergency Conservation Work (IECW) program, also called the Civilian Conservation Corps—Indian Division (CCC-ID). Under IECW, American Indians fixed land problems, usually caused by non-Indian farmers and ranchers exploiting

Indian lands. IECW projects hired Indians to work on soil conservation, soil erosion, and range management programs. Other public works programs sponsored irrigation development projects on Indian reservations.

The centerpiece of the Indian New Deal was the Indian Reorganization Act (IRA). Passed in 1934, the IRA targeted the failed policies of the past. First, it ended allotment. Additionally, it entrusted the secretary of the interior with protecting reservation rangeland. Although this was a positive step, the IRA still relied on the federal government to act as a guardian of, rather than an equal partner with, Indian communities. Finally, the act included steps for American Indians to use to create tribal governments and corporations to oversee local affairs. Cooperative cattle enterprises emerged as the most popular corporation formed under the IRA. Although individual Indians owned the livestock, they herded the cattle communally and pooled their labor during round-up and branding seasons. The San Carlos Apaches' "Social Security Herd" provided food and money for elderly residents who did not own cattle.

Still, the Indian New Deal held shades of government paternalism and "one size fits all" agricultural policies. Nowhere was this clearer than with the livestock reduction programs in the Southwest. In an effort to stem soil erosion in the drought-plagued region, Collier demanded that the Navajo reduce their sheep herds. Navajos objected to this proposal because sheep represented important cultural, social, and economic facets of their lives. Nevertheless, Collier went through with livestock reduction, diminishing Navajo sheep herds from 1.3 million head in 1930 to 465,000 in 1948. This reduction devastated the Navajo economy and their cultural practices. Moreover, it forced many tribe members to look outside the reservation for jobs and other economic opportunities.

American Indians and Agricultural Policy since 1945

After World War II (1939–1945), agriculture remained an important facet of federal Indian policy and American Indian economic choices. Many Natives took advantage of a revolving credit fund and cooperative cattle enterprises to develop farming and livestock operations. In addition, irrigation programs, 4-H clubs, and Veterans Administration programs assisted agricultural endeavors. The San Carlos Apache utilized scientific methods to improve their cooperative cattle program. They practiced soil conservation measures to stem erosion, used artificial insemination to improve

the quality of their cattle herd, and kept detailed progeny records of sires and dams. Yet several problems continued to plague American Indian farming endeavors. The demand for Indian land inflated prices. Beginning in the 1950s, under a policy of termination (severing the trust relationship between American Indians and the federal government), the government reduced the loans and revolving credit fund available for American Indian farmers. Finally, the complicated nature of inherited allotments (with multiple heirs) and the leasing of land to non-Indian farmers and ranchers limited the amount of land available to Indian farmers. These problems persisted in the 1960s and 1970s.

Despite the diminishing importance of farming in the 1970s, the BIA recently attempted to revitalize American Indian agriculture. In 1993 the U.S. Congress passed the American Indian Agricultural Resource Management Act. In an effort to develop Native agricultural endeavors, the act protected Indian trust lands, created more 4-H clubs and extension programs on reservations, and increased the amount of money available to lend (at a reduced interest rate) to Indian farmers. However, a 1999 report to the Senate Committee on Indian Affairs revealed that the act had failed to improve American Indian agriculture. The report stated that the credit fund lacked sufficient monies, American Indian farming land still lacked adequate protection, and the act did not address irrigation.

For more than 225 years, Jefferson's ideas about farming and agrarian life guided federal Indian policy. Federal officials hoped to assimilate Indians by introducing them to agriculture, which many considered the kindest and cheapest choice for dealing with Indians. Unfortunately, agricultural policy tended to reflect non-Indian desires to acquire Indian land rather than a humanitarian effort to help Indians. Ignoring existing agricultural traditions in Indian communities, officials threatened Native gender relations and sought to alter American Indian land use patterns. If anything, the agricultural development of non-Indians benefited from removal and allotment policies and led to substantial land loss in Indian communities. In the end, two centuries of U.S. agricultural policy contributed to contemporary poverty and unemployment problems on Indian reservations.

See also *Allotment in Severalty; Assimilation and Acculturation; Blood Quantum; Collier, John; Education: Boarding Schools; General Allotment Act (Dawes Act) of 1887; Hawkins, Benjamin; Indian New Deal; Indian Reorganization Act (1934); Indian Territory;*

McGillivray, Alexander; Meriam Report; Removal; Reservations; Tenskwatawa; Trust Lands.

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BIBLIOGRAPHY

- Dowd, Gregory Evans. *A Spirited Resistance: The North American Indian Struggle for Unity, 1745–1815*. Baltimore: Johns Hopkins University Press, 1993.
- Greenwald, Emily. *Reconfiguring the Reservation: The Nez Percés, Jicarilla Apaches, and the Dawes Act*. Albuquerque: University of New Mexico Press, 2002.
- Hurt, R. Douglas. *Indian Agriculture in America: Prehistory to the Present*. Lawrence: University Press of Kansas, 1996.
- Iverson, Peter. *When Indians Became Cowboys: Native Peoples and Cattle Ranching in the American West*. Norman: University of Oklahoma Press, 1997.
- Leavelle, Tracy Neal. “‘We Will Make It Our Own Place’: Agriculture and Adaptation at the Grand Ronde Reservation, 1856–1887.” *American Indian Quarterly*, vol. 22 (Autumn 1998): 433–56.
- Lewis, David Rich. *Neither Wolf nor Dog: American Indians, Environment and Agrarian Change*. New York: Oxford University Press, 1997.
- Meyer, Melissa. *The White Earth Tragedy: Ethnicity and Dispossession at a Minnesota Anishinaabe Reservation, 1889–1920*. Lincoln: University of Nebraska Press, 1999.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Saunt, Claudio. *A New Order of Things: Property, Power and the Transformation of the Creek Indians, 1733–1816*. New York: Cambridge University Press, 1999.
- White, Richard. *The Roots of Dependency: Subsistence, Environment, and Social Change among the Choctaws, Pawnees, and Navajos*. Lincoln: University of Nebraska Press, 1982.

Akaka, Daniel

Daniel Kahikina Akaka is a Democratic United States senator representing Hawaii. Born September 11, 1924, in Honolulu, Hawaii, Akaka received a bachelor's and a master's degree in education from the University of Hawaii. He served in the U.S. Army Corps of Engineers from 1943 to 1947, and from 1953 to 1968 worked as a teacher and school administrator. After serving in the House of Representatives from 1977 to 1990, Akaka filled the Senate vacancy created by the death of Spark Matsunaga. He was then re-elected to the Senate in 1994, 2000, and 2006. Akaka is usually recognized as the first senator of Native Hawaiian ancestry.

Akaka has been active on many Senate committees, including the Senate Committee on Indian Affairs. He is an outspoken advocate of issues affecting Native Hawaiians, including health care and education. His most significant contribution to the Committee on Indian Affairs came in 1993 when he successfully sponsored United States Public Law 103–150, which called upon the United States to apol-

ogize for its complicity in the overthrow of the independent Kingdom of Hawaii in 1893.

In 2005 Akaka introduced Senate Bill 147, the Native Hawaiian Government Reorganization Act of 2005. This bill seeks to create an Office of Native Hawaiian Relations within the Department of the Interior to give Native Hawaiians a stronger voice in the governance of their state. It also calls for the creation of a Native Hawaiian Interagency Coordinating Group to play a role in the administration of federal programs important to Native Hawaiians. The U.S. House of Representatives passed the bill on October 24, 2007, and in early 2008 it was awaiting a vote in the U.S. Senate.

See also *Native Hawaiians*.

Kevin Hogg

BIBLIOGRAPHY

- Apology Resolution*, S.J. Res. 19, 103d Cong., 1st sess. January 5, 1993, http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=103_cong_bills&docid=f:sj19is.pdf.
- Daniel Kahakina Akaka, U.S. Senator for Hawaii, <http://akaka.senate.gov/public/index.cfm>.
- Native Hawaiian Government Reorganization Act of 2005*, S. 147, 109th Cong., 1st sess. January 25, 2005, http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=f:s147is.txt.pdf.
- Rayson, Ann L. *Modern History of Hawaii*. Hawaii: Bess Press, 2004.
- U.S. Congress. Senate. Committee on Indian Affairs. *Native Hawaiian Recognition Act of 2003: Hearings*. 108th Cong., 1st sess. February 25, 2003.

Alaska Native Brotherhood (ANB) and Alaska Native Sisterhood (ANS)

The Alaska Native Brotherhood (ANB), founded in 1912, along with its sister organization, the Alaska Native Sisterhood (ANS), provided a key organizational foundation for the landmark land claims and civil rights movements among Alaska Natives. Well before the U.S. Civil Rights Act of 1964, ANB and ANS leaders had already achieved important civil rights victories in their state, including the Alaska Anti-Discrimination Act of 1945. Although less influential by the early twenty-first century, the ANB and ANS remain important social and political institutions in Southeast Alaska.

The brotherhood and sisterhood were founded in southeast Alaska, where Tlingit, Haida, and Tsimshian leaders had been subjected to pressures to acculturate for a generation or

more. Despite adopting Christianity and other trappings of white civilization, Natives still suffered cruel discrimination and advancements on their lands and resources from white pioneers and stampedeers, who moved into the territory in large numbers beginning in the late nineteenth century. By 1910 the stresses of disease, discrimination, and loss of land were so great that Natives felt compelled to organize themselves to protect and promote their legal rights and well-being. Most of the ANB founders were influential lay ministers within the Presbyterian Church, including George Field, William Hobson, James C. Johnson, Eli Katanook, Paul Liberty, Frank Mercer, Frank Price, Peter Simpson, James Watson, Chester Worthington, and Ralph Young. The organization's objectives were to give aid to Indians and encourage education among them. To overcome divisions in the traditional social structure, which stressed local clan autonomy, the ANB and ANS were organized into dozens of camps (one or more in each major village) reporting to one Grand Camp, which sponsored a convention each fall to coordinate action. The early ANB leadership focused on "civilizing" members through acculturation (learning English and adopting Western habits) because a Native had to prove to a federal judge that he was "civilized" in order to obtain the right to vote. This burden was finally lifted in 1924 with passage of the American Indian Citizenship Act.

With citizenship and the vote in hand, ANB leadership under Louis and William Paul (William being the first Native elected to the Territorial Legislature in 1924) shifted to securing land rights and ending other forms of discrimination. An ANB resolution in 1929 launched a successful Tlingit and Haida land claims suit against the federal government and helped pave the way for the 1971 Alaska Native Claims Settlement Act. Other resolutions called for an end to discrimination, including in education, where Jim Crow policies of segregated schooling for Natives had long been in place. As with blacks in the South, this policy of "separate but equal" had proven unequal for Natives, whose facilities, course availability, and access to higher education were inferior to those of whites. Segregated theaters and restaurants, too, were commonplace in larger, multi-ethnic towns. The civil rights issue came to a head in 1944, when a young Eskimo woman, Alberta Schenck, was arrested and jailed for refusing to give up her seat in the whites-only section of a theater in Nome. With the backing of the governor and two Tlingit ANB leaders, Frank Peratrovich and Andrew Hope, both recently elected to the Territorial Legislature, the ANB and ANS lobbied successfully for passage of the Alaska Anti-

Discrimination Act in 1945. The most influential testimony during debate in the legislature came from ANS leader Elizabeth Peratrovich. In response to a leading senator opposed to the bill, who argued that “the races should be kept further apart. Who are these people, barely out of savagery, who want to associate with us whites, with 5,000 years of recorded civilization behind us?” Peratrovich admonished, “I would not have expected that I, who am barely out of savagery, would have to remind the gentlemen with 5,000 years of recorded civilization behind them of our Bill of Rights” (Nora M. Dauenhauer and Richard Dauenhauer, *Haa Kusteeyí, Our Culture: Tlingit Life Stories*, 1994). Her forceful oratory carried the day, and the legislation was passed and signed into law on February 16, 1945. Alaskans in the twenty-first century mark February 16 as Elizabeth Peratrovich Day, in honor of her role in the civil rights struggle. Similarly, the ANB and ANS are recognized for their leadership in Alaska’s pioneering civil rights movement and continuing work on behalf of Alaska Natives.

See also *Alaska Native Claims Settlement Act of 1971; Alaska Natives; Assimilation and Acculturation.*

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BIBLIOGRAPHY

- Cole, Terrence M. “Jim Crow in Alaska: The Passage of the Alaska Equal Rights Act of 1945.” *Western Historical Quarterly*, vol. 23 (November 1992): 429–449.
- Dauenhauer, Nora M., and Richard Dauenhauer. *Haa Kusteeyí, Our Culture: Tlingit Life Stories*. Juneau and Seattle: Sealaska Heritage Foundation and University of Washington Press, 1994.
- Haycox, Stephen W. “William Paul, Sr. and the Alaska Voters’ Literacy Act of 1925.” *Alaska History*, vol. 2, no. 1 (1986): 17–37.
- . “Alaska Native Brotherhood Conventions: Sites and Grand Officers 1912–1959.” *Alaska History*, vol. 4, no. 2 (1989): 39–46.
- Light, David P. *Brothers in Harmony: The Haines Alaska Native Brotherhood Founders*. Anchorage, Alaska: David P. Light, 2002.
- Mitchell, Donald Craig. *Sold American: The Story of Alaska Natives and Their Land, 1867–1959: The March to Statehood*. Hanover, New Hampshire: University Press of New England, 1997.
- Worl, Rosita. “The Birth of the Civil Rights Movement.” *Alaska Native News*, vol. 1 (November 1983): 10–37.
- . “A History of Southeastern Alaska Since 1867.” In *Handbook of North American Indians, Volume 7: Northwest Coast*, edited by Wayne Suttles, 149–158. Washington, D.C.: Smithsonian Institution Press, 1990.

Alaska Native Claims Settlement Act of 1971

The Alaska Native Claims Settlement Act (ANCSA) was passed by Congress in 1971 in response to pressure from

Native groups that sought recognition of their land claims after the discovery of rich oil fields along the North Slope of the state. Alaska’s indigenous populations did not have treaties with the United States, and when oil companies wanted to build the Alaska pipeline down the middle of the state, they were blocked by indigenous claims of ownership of most of the state’s land and waters. These claims were pressed by groups such as the Alaska Native Brotherhood and the Alaska Federation of Natives.

The ANCSA followed the long-time U.S. policy of assimilating American Indians into mainstream society by altering traditional tribal structures. It encouraged over two hundred indigenous villages to incorporate, with individuals becoming “stockholders.” The act also set up twelve regional Native corporations and one corporation for Native people who had left the state. The stockholders in these corporations shared in both the risks and the revenues of corporate business ventures. All those with 25 percent or more Native “blood” qualified to participate in this process.

By the terms of the ANCSA, Native Alaskans also received \$962.5 million and clear title to 44 million acres of land—about one-ninth of Alaska’s total land. They gave up claims to 375 million acres, including two thousand miles of coastline. The federal government retained 217 million acres, and the State of Alaska received 102 million acres.

About eighty thousand Alaska Natives received one hundred shares of stock in a village corporation and one hundred shares in a regional corporation. Those not living in villages received stock in a regional corporation. Those born after 1971 did not receive stock, which has created conflict as younger generations have come of age.

The implementation of the ANCSA was fraught with problems, including slow distribution of land to the new corporations, fighting among village and regional corporations, and extensive conflict between the state government and Native shareholders. In particular, the selection of lands to be held by Native corporations was hotly contested. Between 1980 and 1984 alone, 266 cases reached the appellate level and were decided by the Department of the Interior’s administrative judges. Approximately half of the department’s decisions were later appealed to the federal district courts.

Over two hundred village corporations were formed, although some Alaska Natives have never considered the ANSCA or its corporations valid. Tribal governance changed, as existing governments were bypassed and the new corporations gained title to the land and its resources. The corporations themselves, however, had no government

powers. The result was often conflict between Native-controlled corporate and governmental entities, particularly when the issue was whether to contract with outsiders for resource extraction.

The ANCSA also brought changes to Alaska Natives' cultural practices and expectations. Indigenous people who had no experience with land ownership became shareholders in corporations, which then exercised control over both the land and its resources. People who had historically moved to different locations to take advantage of seasonal food sources were often unable to access those locations and bound to one particular village. The houses provided for village residents relied on cash-based energy sources and were often not built to withstand harsh winters, in contrast to those the Indians built when they were self-sufficient. Cultures that were based on an economic system of cooperation and sharing were suddenly expected to compete in the international market system. Some commentators criticized the merging of indigenous cultures and the modern corporation, and many observers predicted that the outcome of the ANCSA would be the alienation of land and resources from Native ownership.

As the new Native corporations began business in the 1970s, most combined financial goals with efforts to maintain some aspects of indigenous cultures. Some entered into contracts for the extraction of resources, and many made efforts to protect the regional environment. Congressional amendments to the ANCSA in the late 1970s were, among other things, designed to protect Native corporate assets from tax forfeitures and non-Indian ownership.

The act remained subject to legal disputes through the 1990s, particularly over whether Native corporate lands were defined as "Indian country" and whether their occupants were "tribes." Alaska Natives supported these designations, while the state opposed them. President George H. W. Bush's administration sided with the state, while President Bill Clinton's sided with Native peoples. In 1998 the U.S. Supreme Court decided in *Alaska v. Native Village of Venetie Tribal Government* that Native lands were not Indian Country.

See also *Alaska Native Brotherhood (ANB) and Alaska Native Sisterhood (ANS)*; *Alaska Natives*; *Assimilation and Acculturation*; *Indian Country*; *Self-Determination*.

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BIBLIOGRAPHY

Berger, Thomas R. *Village Journey: The Report of the Alaska Native Review Commission*. New York: Farrar, Straus and Giroux, 1985.

Mitchell, Donald Craig. *Take My Land, Take My Life: The Story of Congress's Historic Settlement of Alaska Native Land Claims, 1960–1971*. Fairbanks: University of Alaska Press, 2001.

Skinner, Ramona Ellen. *Alaska Native Policy in the Twentieth Century*. New York: Garland Publishing, 1997.

Sutton, Imre, ed. *Irredeemable America: The Indians' Estate and Land Claims*. Albuquerque: University of New Mexico Press, 1985.

Alaska Natives

Alaska Natives have a unique status among aboriginal peoples of the United States and are typically classified separately from "Lower 48" Indians in American Indian policy, relations, and law. This separate status is based in part on the anthropological view that Eskimos (Inupiaq and Yup'ik peoples of Alaska) and Aleuts (Unangan) comprise a population genetically distinct from Indians. Yet it is also a convenient geographical and political label that is applied as well to Athabaskans, Tlingits, Haidas, Tsimshians, and other Indian groups in the state. The federal government frequently created similar policies for all these groups, often as a sequel to Lower 48 Indian policy. All Alaska Natives are presumed to have migrated from the Old World between about 15,000 to 5,000 years ago (earlier for the Indians, later for the Eskimo-Aleut) either via Beringia (the land mass that linked Siberia and Western Alaska during the last ice age) or a coastal water route. At first contact the total Alaska Native population was approximately eighty thousand. In 2008 it was estimated at more than 100,000, though an increasing number of Natives lived out of state, and the percentage of Natives in Alaska's population was at an all time low, about 12 percent.

European explorers sailed the Alaskan coast in the mid-eighteenth century, but settlement did not occur until the Russians arrived in the early nineteenth century in search of valuable furs, especially sea otter. The Russian America Company, a state-sponsored monopoly, set up outposts in Sitka, Yakutat, Kodiak, and St. Michael, and conscripted Aleut hunters to harpoon sea mammals for their commercial trade. One group of Aleuts was even forced to resettle on the remote Pribilof Islands of Saint Paul and Saint George to harvest the coveted fur from the seals that bred there. Disease, the stress of relocation, and exploitation took a frightful toll on the Aleut and other Alaska Native populations located near Russian outposts. (The more northerly Yup'ik and Inupiaq Eskimos and interior Athabaskan Indians were less affected by Russian invasion.) Meanwhile, the well-organized Tlingits of the southeastern panhandle resisted Russian domination and destroyed original Russian forts



Alaskan Inuit boys carve walrus ivory. Subsistence and economic development remain primary concerns for Alaska Natives, who suffer disproportionately from poverty in rural areas.

at Sitka and Yakutat in 1802 and 1805, respectively. But the Russians retook Sitka in a fierce battle in 1804, and it became the hub of Russian America until the colony was sold to the United States in 1867. To this day many Alaska Natives maintain that Russia never established legal title to Alaska—through treaty, conquest, or occupation—and ruled little of the territory beyond their few coastal outposts. Furthermore, the Treaty of Cession by which the United States acquired Alaska from Russia recognized the aboriginal title of Alaska Native tribes. The treaty provided that “The Uncivilized tribes will be subject to such laws and regulations as the United States may, from time to time, adopt in regard to aboriginal tribes.” Aboriginal title was not formally extinguished until a century later, when Congress passed the 1971 Alaska Native Claims Settlement Act (ANCSA). But questions about the aboriginal and contemporary sovereignty of Alaska Native tribes remain.

U.S. “Ownership,” Law, and Policy

The United States bought Alaska from Russia in 1867 for \$7.2 million. The United States’ initial interests in the state were its fisheries, timber, oil (initially whale and herring, later crude), and mineral resources. Non-Native entrepreneurs, prospectors, and adventurers were eager to capitalize on the bounty of “the last frontier,” and conflicts over land and resource rights emerged as outsiders poured into the country. Friction was most intense in southeastern Alaska,

where Tlingits and Haidas continued to defend their lands and waters against advancing commercial fishing, canning, and mining operations. In western Alaska, northern Eskimos and Athabaskans had to contend with gold stampeders pouring into places like Nome and the Yukon-Klondike. By the 1880s the U.S. military was active in subduing Alaska Native resistance to white incursions, and the Natives petitioned the federal government to address their conflicts with the non-Natives who had no regard for their aboriginal rights. Congress finally recognized its obligation to Alaska Native rights in the 1884 Organic Act, which held that “Indians or other persons . . . shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them but the terms under which such persons may acquire title to such lands is reserved for future legislation.” At the time, the act was scarcely enforced, but it served as a foundation for the Alaska Native land claims movement and Congress’s eventual settlement of Alaska Native title to their lands and resources in the 1971 ANCSA.

By the end of the nineteenth century, a civilian government had replaced the military authority in the Alaska Territory, and Natives were beginning to be “disciplined” and “civilized” through schools and churches. The Russian Orthodox Church continued to play a strong role in the old Russian strongholds, but was soon rivaled by Presbyterian, Episcopalian, Catholic, Moravian, Quaker, Salvation Army, and other missions in Native communities around the terri-

tory. Missionaries like the Presbyterian Sheldon Jackson, the first general agent of education in Alaska who helped set up the Sitka Mission School (later Sitka Industrial Training School and currently Sheldon Jackson College), and his protégé, John G. Brady, the territorial judge and governor, had enormous influence over the course of Alaska Native affairs during this period. Although supporters of the Organic Act, these leaders believed that the future well-being of Alaska Natives would be achieved by “elevating” them from “savagery” to civilized white ways. This meant abandoning the spirituality of animism for Christianity, and the nomadic practice of hunting-gathering for more settled lifestyles and industrial employment. Church and state were firmly entangled in this mission to domesticate Alaska Natives, as various denominations gained concessions to operate churches and schools in the numerous settlements throughout the vast territory. The result was that different denominations tended to concentrate in certain areas. For instance, the Friends Church was prominent in the Kotzebue Sound area, Moravians were prominent in the Yukon-Kuskokwim Delta, and Episcopalians congregated in the interior. Reindeer herding was also introduced as a way to encourage non-nomadic lifestyles. Secular schools did not arrive until the Bureau of Education began establishing them in the early 1900s.

As elsewhere in the country, progressive education for Native minorities did not provide equal opportunity. Alaska Natives continued to suffer discrimination and were denied basic rights, including citizenship and land ownership, as well as access to employment and other resources readily available to incoming non-Natives. The stress of discrimination and white incursions drove the Tlingit, Haida, and Tsimshian leaders of southeastern Alaska to found the Alaska Native Brotherhood (ANB) in 1912 (followed shortly thereafter by the Alaska Native Sisterhood [ANS]) to help promote Native civil rights. These rights included citizenship, land claims, integration, and freedom from discrimination. ANB and ANS camps were formed in nearly every village in southeastern Alaska, as well as in many other communities in the state. The early brotherhood was heavily influenced by the Presbyterian Church and stressed embracing Christian civilization as a means of improving the status of Alaska Natives. The ANB soon became a political force to be reckoned with as it fought to win citizenship and the right to vote for Natives. At its 1929 convention, led by the talented Tlingit lawyer and territorial legislator William Paul, the brotherhood helped launch a major land claims suit against

the U.S. government. This suit first had to be authorized by the federal government before it could proceed, which took until 1935, and then it had to endure one dismissal and three decades in the courts before finally being settled. Finally, in 1968 the U.S. Court of Claims awarded the Tlingits and Haidas \$7.5 million for the value of lands taken without compensation, less than 10 percent of the \$80 million the Natives had sought. The court also held that Indian title to some 2,634,744 acres of Alaska had not been extinguished. A major outcome of this suit was the creation of the regional Central Council of Tlingit and Haida Indian Tribes of Alaska, a federally recognized tribe, to administer settlement funds. Outstanding land claims were later rolled into the 1971 ANCSA.

The “Indian New Deal” of the Roosevelt administration, as implemented by Commissioner of Indian Affairs John Collier, brought renewed interest in tribal self-government. The Indian Reorganization Act of 1934 established provisions for Native Americans’ political self-government and economic self-determination, and in 1936 Natives successfully lobbied to extend the law to Alaska. Reformers believed that the mistakes of the Lower 48 states could be avoided in Alaska, where land loss had been comparatively minimal and traditional land and resource bases were still largely intact. The Alaska Reorganization Act allowed the secretary of the interior to designate lands used or occupied by Natives (that is, lands to which they had aboriginal title) as reserves. Given the problems that plagued reservations in the Lower 48 states, however, not everyone agreed that this was the best policy. There was also the issue of conflicts with non-Native interests. Thus, when Interior Secretary Harold Ickes proposed the first reservation encompassing the Athabaskan community of Venetie in 1943, many were alarmed by its size (1,408,000 acres) and the fact that some one hundred other proposed reservations would encompass nearly half of Alaska Territory. Territorial Governor Ernest Gruening and others who opposed the plan successfully appealed to the secretary to scale it back and to have impartial observers consider other solutions, such as financial compensation.

World War II (1939–1945) brought Alaska from the outskirts of American politics to the center stage of Pacific affairs. Japan invaded and briefly occupied the remote Aleutian islands of Attu and Kiska in 1942. The United States responded by evacuating nearby Aleut communities; investing heavily in defensive fortifications, communications, and transportation; and bringing in military and civil-

ian personnel throughout the territory. The now famous Alaska-Canada (Alcan) highway was constructed to help supply military outposts in the region. Although the overall security of Alaska was never threatened, the strategic importance of the territory became firmly established, and military build-up continued during the Cold War. This militarization spurred significant development and population growth in the state, often at the expense of Alaska Native lands, resources, and communities. No one suffered more than the evacuated Aleuts, however. They were given no warning before their removal from their homes in 1942; their communities were burned to the ground by the American military; and they were forcibly resettled to isolated, ill-equipped camps in dilapidated southeastern canneries far from their homelands. They lived in these camps until 1945 under conditions so desperate that 10 percent of the population perished. In 1988, after years of lobbying, Aleuts finally received a formal apology from Congress and financial compensation for their losses. In most areas, Alaska Natives continued to suffer discrimination—signs such as “No Dogs or Indians Allowed” were posted by some non-Native shop owners—until they secured passage of an antidiscrimination law in 1945, after a vigorous campaign lead by the ANB and ANS.

Alaska Statehood, Land Claims, and Subsistence

In 1946 Congress created the Indian Claims Commission to formally investigate Native claims. This was done so tribes would no longer have to secure a jurisdictional act from Congress (as the Tlingit and Haida had in 1935) before suing the government in the Court of Claims. Still the process of settling claims was slow. Relations became especially hostile after Alaska achieved statehood in 1959 and sought lands for its own development. The Alaska Statehood Act granted the new state more than 100 million acres of land, much of which had already been claimed by Native groups. Like the Organic Act of 1884, the Statehood Act disclaimed rights over Native lands but put the burden on Congress to settle the matter. Conflicts over land use and regulation of Alaska Native customary and traditional activities (such as hunting) became a growing source of tension. For example, in 1961 Inupiaq hunters staged a “duck-in” to protest enforcement of the International Migratory Bird Treaty between Canada, Mexico, and the United States, which prohibited their spring hunt of ducks, a critical food source. This may have been the first organized act of civil disobedience on the part of Alaska Natives, and it signaled their strong commitment

to maintaining their hunting and fishing rights as a foundation for their physical and cultural survival. That same year, the Inupiaq president of the Point Hope Village Council wrote to the Association of American Indian Affairs seeking legal and technical support to defend their land and resource rights. Around this time a movement known as Inupiat Paitot, or The People’s Heritage, began in response to the threat of Atomic Energy Commission testing and explosions (to create a deep port harbor) near Point Hope. This organization began publishing a newsletter under the editorship of Howard Rock. Rock eventually expanded it into a full-scale newspaper, the *Tundra Times*, which became the leading voice in Alaska Native news and advocacy from 1962–1997. Intervillage and interregional communication was greatly enhanced through this new medium, which helped garner the support of national advocacy organizations, such as the Association of American Indian Affairs and the Indian Rights Association.

In 1963 the U.S. Department of Interior’s Alaska Task Force on Native Affairs warned that the issue of aboriginal claims was continuing to be “sidestepped” and that a speedy and fair resolution was in order. It made specific recommendations for solving Alaska Native land claims, including individual and community land grants and the protection of use rights on additional lands for traditional food harvesting activities. But this solution was opposed by Native groups because it lacked monetary compensation for lands lost and did not give Native Alaskans rights to minerals and lands for which they maintained title. Meanwhile, Natives filed formal protests to state land selections on the basis of aboriginal claims, and in 1966 Secretary of the Interior Stewart Udall imposed a “land freeze” that prevented additional transfers until the question of aboriginal claims was settled. By 1967 twelve regional associations were established along geographic and cultural lines to pursue the respective land claims, and their leaders met to form the Alaska Federation of Natives (AFN), a statewide advocacy organization that remained a paramount force in Alaska Native affairs in the early twenty-first century.

The discovery of oil at Prudhoe Bay on Alaska’s arctic coast and the push to develop a trans-Alaska pipeline to transport the crude oil from the North Slope (Inupiaq Eskimo country) to the Gulf of Alaska (crossing Athabaskan and Alutiiq lands and waters) ultimately compelled the federal government to settle Alaska Native land claims once and for all. The 1971 ANCSA was not a treaty or a court judgment but rather a unilateral legislative solution to land

claims. Despite input by the Alaska Federation of Natives (AFN) and other groups, a significant number of Alaska Natives opposed it. Even so, the settlement was generous by prior standards, with Natives gaining title to 10 percent of the state's lands and \$962 million in compensation for lands lost. In exchange, Congress extinguished aboriginal land, hunting, and fishing rights. More importantly, rather than pay out the compensation monies to individuals or tribal governments, the ANCSA created a new set of institutions to manage the lands and money awarded: twelve Alaska Native regional corporations (a thirteenth was later added for nonresident Alaska Natives) and some 220 village business corporations. Alaska Natives born prior to the passage of the ANCSA were given one hundred shares in both their regional and village corporations. ANCSA corporations were designed so that Natives could collectively adapt and prosper in the capitalist-industrial economy. As AFN president Emil Notti put it, the ANCSA was to bring Native people into the economic mainstream in a way that reservations and trust payments had not. Some critics saw corporations as a clever means of pursuing both assimilation and termination, like the General Allotment Act (Dawes Act) of the nineteenth century, but with a twentieth-century emphasis on business development rather than farming. Others saw the ANCSA framework as the best means for Alaska Natives to control their own destiny. Some corporations, such as Sealaska (Tlingits, Haidas, and nonreservation Tsimshians), succeeded, even making the Fortune 500 list of successful companies, but many others struggled to create jobs and profit in Alaska's challenging business environment.

Initial local investment strategies proved risky in Alaska's boom-and-bust natural resource economy, ending in bankruptcy in some cases. For this reason, many corporations shifted investment outside the state to reduce their vulnerability, thus limiting local investment and employment. But unlike other corporations, Alaska Native corporations have remained headquartered and rooted in the state, giving Alaska's economy a measure of stability and the corporations themselves a measure of political influence as pillars in the state's economy. It is perhaps still too early to declare the ANCSA a broad success or failure; indeed the results thus far have been mixed. The ANCSA left many issues unresolved: some Native communities did not receive recognition, land, or compensation; Alaska Natives born after 1971 had questionable status since they did not receive stock in the corporations; the original law stated that Alaska Native stock could be sold to non-Natives after twenty years (though 1991

amendments to ANCSA clarified inheritance rules); and the continuing needs of Natives for subsistence resources were left for the state and the secretary of the interior to consider. While the ANCSA formally extinguished subsistence rights for Alaska Natives, the federal government did promise to safeguard their needs through legislation at a later date.

The subsistence issue has proven particularly difficult. Prior to the ANCSA, Alaska Natives largely managed their own subsistence, hunting, fishing, and gathering according to custom and tradition, with minimal state intervention. In 1972 this self-management system came under threat with passage of the Marine Mammal Protection Act, which banned hunting of threatened sea mammals. Coastal Alaska Natives still dependent on marine mammals succeeded in negotiating an exemption from the ban. Whales, too, became subject to an international hunting ban, with exceptions granted to Alaskan Eskimo communities who organized themselves as the Alaska Eskimo Whaling Commission (AEWC) in 1977. The AEWC sought to protect their subsistence interests through a co-management arrangement overseen by the National Oceanic and Atmospheric Administration (NOAA).

More contention surrounded other fish and game, however, which were increasingly regulated by the state for commercial and recreational interests rather than Alaska Native subsistence needs. As the post-ANCSA industrial economy developed and Alaska's population grew, competition for fish and wildlife resources increased. Alaska Natives, whose aboriginal hunting and fishing rights were extinguished, pushed the federal government to safeguard their continuing subsistence needs as promised in the ANCSA. Congress attempted to fulfill this promise through Section VIII of the 1980 Alaska National Interest Lands Conservation Act (ANILCA). But the state and non-Native interests successfully lobbied against any subsistence preferences for Natives, and a "rural preference" compromise was reached instead. This meant that if allocations of wild resources were necessary, subsistence users living in rural Alaska (basically all communities outside greater Anchorage, Fairbanks, Juneau, and Ketchikan) would have priority use of them.

This compromise has proven both tense and fragile. Initially, the state passed a similar law, but it was later declared unconstitutional by the Alaska Supreme Court because it arbitrarily discriminated against (urban) users according to geography of residence. In response, the federal government threatened to take over management of subsistence resources unless the state complied with the ANILCA's rural prefer-

ence. The federal government eventually did take over management of subsistence on federal lands in 1990, creating a tenuous and patchwork dual management system. Katie John, an Athabaskan elder denied subsistence hunting and fishing rights under state law, filed a successful suit against the federal government to extend ANILCA protections to inland subsistence fisheries surrounded by federal lands. Nonetheless, overall subsistence protections for Natives seem to be eroding. While a rural preference initially benefited most Natives in the state, rural communities have become increasingly non-Native since 1980, and a rising majority of Alaska Natives now reside in urban areas, where no subsistence priority exists. Various fixes to the rural-urban, Native-non-Native divides have been proposed, but to date no remedy has proven politically workable beyond the state-federal dual management regime. Subsistence remains a critical issue for Alaska Natives as customary and traditional subsistence lifeways are still important to identity, well-being, self-determination, and cultural survival, even if not completely necessary for physical survival.

Subsistence rights are also involved in broader concerns about environmental justice in the state. Alaska Natives are now involved in national environmental movements concerned with issues such as climate change and wilderness protection. For instance, since the 1980s, the U.S. Congress has attempted several times to open up the Arctic National Wildlife Refuge (ANWR) for oil drilling. Athabaskan Indians, whose lands border the ANWR and who subsist on the Porcupine caribou herd that passes through the refuge, have successfully protested against the opening, assisted by national environmental groups like the Sierra Club, the National Resources Defense Council, and the World Wildlife Fund, among others. In contrast, some Inupiaq groups, which depend on the industrial oil economy, have favored the opening of the ANWR but are opposed to offshore drilling in areas that threaten their subsistence base of marine mammals. Alaska Natives also have opposed environmental groups, such as the Sea Shepherd Society and Greenpeace, who criticize the Natives' subsistence whaling, and have supported the Makah Tribe of Washington when their right to hunt the gray whale was reinstated by the International Whaling Commission.

Sovereignty, Federal Recognition, and Economic Development

Sovereignty, subsistence, health, and economic opportunity are dominant concerns among contemporary Alaska

Natives. The sovereign status of Alaska Native village governments, organized under the Indian Reorganization Act, was supported in 1993 by Secretary of the Interior Bruce Babbitt's decision to list 226 Alaska Native communities as federally recognized tribes. The "inherent sovereign powers" of these tribes "over their members and territory" were underscored in a 1998 Executive Order (#13084) by President Bill Clinton. Federal recognition of tribes and amendments to the ANCSA has brought new economic opportunities to Alaska Native tribes and corporations. In particular, Native 8(a) provisions give priorities in federal contracting to federally recognized tribes in order to remove barriers to Native economic development created by past government policies. These Native 8(a) provisions have brought much-needed goods, services, and jobs to rural Alaska, and a measure of economic stability to Alaska Native tribes and corporations. In addition, the status of Alaska Native communities as tribes allows them to contract with the federal government for other services, such as health care and education. For instance, the Tanana Chiefs Conference (an Interior Alaska Athabaskan organization) contracts with the federal government to operate an Indian Health Service clinic called the Chief Andrew Isaac Health Center in Fairbanks; in Nome, the Norton Sound Health Corporation administers health services to Seward Peninsula Alaska Natives; and in Anchorage, the Alaska Native Medical Center is available to Alaska Natives from all over the state and offers more intensive medical treatment that cannot be obtained in the villages.

Tribal status also allows Alaska Natives to claim certain items from museums and other institutions that hold collections of Alaska Native human remains and artifacts under the 1990 Native American Graves Protection and Repatriation Act (NAGPRA). Artifacts that can be claimed include associated and unassociated funerary objects, sacred objects, and objects of cultural patrimony (objects that are considered to be "owned" by groups of people such as religious societies or clans and for which no single individual can claim ownership). Many museums and institutions in the United States hold Alaska Native artifacts, including the Smithsonian Institution, which houses approximately eighteen thousand of them. Some of these artifacts have been and will be returned under the NAGPRA. Because of cultural differences, some Alaska Native groups concentrate their efforts on claiming human remains so that they may be reburied. Others, such as those in the Alaskan Southeast, have focused on objects of cultural patrimony that are central to their

identity and status. The awareness and return of these items from museums across the United States has led to the development of Alaska Native museums and cultural centers. Among them are the Barrow Inupiat Heritage Center; the Alutiiq Museum and Archaeological Repository (Kodiak); the Simon Paneak Memorial Museum (Anaktuvak Pass); the Huslia Cultural Center; the Kenaitze Indian Tribe Center (K'beq)/Tribal Archives (Kenai); the Southeast Alaska Indian Cultural Center; and the relatively new Alaska Native Heritage Center (Anchorage).

Still, economic and infrastructural disparities between rural and urban Alaska continue to plague policy makers. Some have declared a “bush crisis” as poverty rates among rural households approach 30 percent and unemployment levels reach as high as 75 percent. In 1998 Congress created the Denali Commission to address rural Alaska concerns by investing in critical community infrastructure, especially health care, sanitation, and energy facilities, as well as employment assistance. The commission has its own competitive grant process and a variety of partnerships with tribal, federal, state, and local governments.

Education

The quality and support of education in rural Native villages also remains a challenge even after Alaska Natives won a successful lawsuit against the state in *Tobeluk v. Lind*, also known as the “Molly Hootch” case. This case was settled in 1976 when the state agreed to build high schools in 126 Alaska Native villages that previously had to send their children away to boarding schools in order to obtain a high school degree. In addition, some educational funding for Alaska Natives is available under the federal Johnson-O'Malley (JOM) Act of 1934, through grants given by the Bureau of Indian Affairs Office of Indian Education Programs (BIA-OIEP). The BIA-OIEP contracts with tribes, tribal organizations, school districts, and state education agencies (SEAs) for the education of Alaska Native and American Indian students. Indian students from age three through twelfth grade, except those enrolled in BIA or sectarian schools, are eligible for benefits under the JOM contract if they possess one-fourth or more Indian blood. Other funding for Alaska Native education comes from the U.S. Department of Education and the State of Alaska. Unfortunately, while the Alaska Native rate of graduation is over 80 percent in rural schools, 60 percent drop out of urban schools, and overall Native students score much lower than average on standardized tests such as the SAT (Scholastic Aptitude Test) or the

ACT (American College Test). A study by the Education Task Force for Alaska Native Commission, based upon 1990 demographic data, states that the reasons for this low achievement level include the poor economic situation of many Native students; endemic medical and social problems; the difficulty of succeeding in a system based on the values of another culture and managed to a large extent by people from another culture; and, for rural Alaska Natives, limitations thought to be inherent in small schools.

About 60 percent of Alaska's small schools offer bilingual education programs and 80 percent offer instruction in community history and cultural traditions. Bilingual education programs in the state have some support through the Alaska State Bilingual Association, an organization that sponsors the annual Bilingual Multicultural Education/Equity Conference (BMEEC). Conference topics include best practices for bilingual education instruction and ways to encourage proficiency in Alaska Native “heritage language and culture.” In addition, the State of Alaska mandates bilingual education for each school district that has eight or more “limited English proficiency” students. Finally, the Alaska state legislature established the Alaska Native Language Center (ANLC) in 1972 to document and cultivate the state's twenty Alaska Native languages. Staffed by a number of linguists and Alaska Native language speakers, the ANLC publishes dictionaries, grammar texts, and bilingual books in Alaska Native languages. The ANLC also offers instruction in the major Alaska Native languages, such as Central Yup'ik Eskimo, Inupiaq Eskimo, and Gwich'in Athabaskan. Individual or small group instruction is also available in other Athabaskan languages, Siberian Yup'ik, Alutiiq, Aleut, and Tlingit.

Alaska Native Politics

Alaska Native sovereignty and self-determination are growing but remain constrained in comparison to Indian tribes of the Lower 48. The extinguishment of aboriginal land rights under the ANCSA, combined with the transfer of land to Native corporations (excepting one reservation at Metlakatla), has limited tribes' control over “Indian Country.” In an increasingly non-Native and urban-oriented state and global economy, the future well-being of Alaska Natives is tied to their effectiveness in political processes at the state, federal, and international levels. The Alaska Federation of Natives (AFN), the major Native lobbying force behind the ANCSA and the ANILCA, continues to be the central Native force in Alaska state politics. Its member-

ship is comprised of 178 Native villages and the thirteen regional ANCSA corporations that advocate through a single governing board and president. At the state level, the AFN is active in the legislature, particularly on issues such as education, subsistence, health, resource development, and employment. For instance, at its annual fall convention in 2006, the AFN passed resolutions on these topics, including one urging a reduction in greenhouse gas emissions and one asking the state to include rural school districts in the Power Cost Equalization Program, which supplies funds to offset increased costs for fuel in rural areas due to transportation.

Despite the many problems that still face Alaska Natives, similar to problems faced by indigenous peoples throughout the world, they now have a history of empowering themselves through organizations such as the AFN. In addition, Inupiat and Yupiit Eskimos in Alaska participate as members of the Inuit Circumpolar Conference (ICC), an international, ethnonational organization comprised of approximately 160,000 Inuit in Alaska, Canada, Greenland, and Russia. Established in 1977 by Inupiaq Eskimo leader Eben Hopson, the ICC seeks to preserve a common Inuit heritage and to give a strong international voice to Inuit circumpolar concerns. The ICC advocates on key issues affecting these groups across national boundaries, including environmental contamination; climate change; language loss; promotion of Inuit rights through national and international policies and regulations; development of long-term policies that safeguard the Arctic environment; and more equal partnerships in the political, economic, and social development of Arctic regions. The ICC holds a conference every four years, with delegates from the four participating nations meeting over a period of one week to pass resolutions on concerns of all indigenous residents of the North. This international coordination has helped bring critical issues such as climate change impacts and arctic pollution to the attention of policy makers around the world. Other international indigenous organizations with Alaska Native delegates include the Arctic Athabaskan Council, formed by Athabaskan Indians in the United States and Canada, and a host of international forums, such as the United Nations Permanent Forum on Indigenous Issues. These organizations allow Alaska Natives to fight against international, national, state, and even local government policies that would diminish their rights; to convince lawmakers to protect the rights that they still hold; and to encourage productive working relationships with government officials, scientists, and teachers for the benefit of all Alaska Natives.

See also *Alaska Native Brotherhood (ANB) and Alaska Native Sisterhood (ANS)*; *Alaska Native Claims Settlement Act of 1971*; *Fur Trade; Hunting, Fishing, and Gathering Rights*; *Indian Claims Commission Act*; *Indian Country*; *Indian New Deal*; *Indian Reorganization Act (1934)*; *Johnson-O'Malley Act (1934)*; *Missions and Missionaries*; *Native American Graves Protection and Repatriation Act*; *Oil and Gas*.

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BIBLIOGRAPHY

- Alaska Federation of Natives, www.nativefederation.org.
- Berger, Thomas. *Village Journey: The Report of the Alaska Native Review Commission*. New York: Hill and Wang, 1985.
- Burch, Ernest S., Jr. "The Land Claims Era in Alaska." In *Handbook of North American Indians, Volume 5: Arctic*, edited by Davis Damas, 657–661. Washington, D.C.: Smithsonian Institution Press, 1984.
- Case, David S., and David A. Voluck. *Alaska Natives and American Laws*. Fairbanks: University of Alaska Press, 2002.
- Chance, Norman A. "Alaska Eskimo Modernization." In *Handbook of North American Indians, Volume 5: Arctic*, edited by Davis Damas, 646–656. Washington, D.C.: Smithsonian Institution Press, 1984.
- Cole, Terence. "Jim Crow in Alaska: The Passage of the Alaska Equal Rights Act of 1945." *Western Historical Quarterly*, vol. 23, no. 4 (1992): 429–449.
- Goldschmidt, Walter R., and Theodore H. Haas. *Haa Aaní, Tlingit and Haida Land Rights and Use*. Seattle and Juneau: University of Washington Press and Sealaska Heritage Foundation, 1998.
- Haycox, Stephen. *Alaska: An American Colony*. Seattle: University of Washington Press, 2002.
- . *Frigid Embrace: Politics, Economics and Environment in Alaska*. Corvallis: Oregon State University Press, 2002.
- Huntington, Henry P. *Wildlife Management and Subsistence Hunting in Alaska*. Cambridge and London, England: Belhaven Press and the Scott Polar Research Institute, 1992.
- Langdon, Steve J. *The Native People of Alaska*, 4th ed. Anchorage: Greatland Books, 2002.
- McBeath, Gerald A. *The Dynamics of Alaska Native Self-Government*. Lanham, Maryland: University Press of America, 1980.
- Mitchell, Donald Craig. *Sold American: The Story of Alaska Natives and Their Land, 1867–1959*. Fairbanks: University of Alaska Press, 1997.
- . *Take My Land, Take My Life: The Story of Congress's Historic Settlement of Alaska Native Land Claims, 1960–1971*. Fairbanks: University of Alaska Press, 2001.
- Thornton, Thomas F. "Alaska Native Corporations and Subsistence: Paradoxical Forces in the Construction of Sustainable Communities." In *Sustainability and Communities of Place*, edited by Carl Maida, 41–62. New York and Oxford: Berghahn Books, 2007.
- Worl, Rosita. "A History of Southeastern Alaska Since 1867." In *Handbook of North American Indians, Volume 7: Northwest Coast*, edited by Wayne Suttles, 149–158. Washington, D.C.: Smithsonian Institution Press, 1990.

Alaska v. Native Village of Venetie Tribal Government (1998)

See *Alaska Natives*.

Alcatraz Island, Seizure of (1969)

The seizure of Alcatraz Island on November 20, 1969, by American Indian activists was one of the most important Native efforts to gain political empowerment and self-determination. After the federal prison on Alcatraz, once the home of the ancient Costanoan and Ohlone people, was shut down in 1963, a group of Native Americans filed an unsuccessful lawsuit claiming the island under a Sioux treaty that gave them the right to unused federal land. On March 9, 1964, Allen Cottier, president of the American Indian Council, led Sioux Indians in a brief occupation of the island. Before their removal, they demanded that Alcatraz be used for a Native American cultural center and university. Cottier's protest inspired Native American students at San Francisco State University. Under the leadership of Richard Oakes, the students formed the Student Kouncil of Intertribal Nations (SKINS), which became instrumental in the subsequent occupation of Alcatraz. LaNada Boyer coordinated the activities of this and other groups as the Red Power movement blossomed during the 1960s.

In the pre-dawn hours of November 20, 1969, a group of about eighty American Indians, mostly college students, sailed over to Alcatraz and seized control of the island. They proclaimed that the island had been reclaimed on behalf of all Native Americans by right of discovery, that the white man's claims would be settled for \$24 in glass beads and red cloth, and that the houses of the four island caretakers would be held in trust by the "bureau of Caucasian affairs." The U.S. Coast Guard immediately established a blockade around Alcatraz, but the federal government did not attempt to remove the demonstrators because they were nonviolent.

The Indians sought a university-like educational and cultural complex on the island with financing provided by the federal government. While lookouts watched for federal officers, the protestors planted trees, fixed the plumbing and electricity in the prison's buildings, and prepared meals for the many families on the island. They organized themselves into a group called the Indians of All Tribes, elected a seven-member council, established residency requirements, published a newsletter, and broadcast a weekly radio program. The protest garnered enormous publicity and struck a nerve among Indians who wanted to dramatize their plight. The easily penetrated blockade allowed many people, such as Indian scholar and activist Vine Deloria Jr., to visit the island to show support and to live there for a time.

By early 1970 the Indians on Alcatraz became fragmented as groups rose in opposition to Oakes, students returned to school, and counterculture people who not been involved from the beginning moved to the island. Oakes left the island after his daughter died in a fall down a stairwell. On June 11, 1971, a government force of fifteen marshals recaptured Alcatraz without resistance, removing the six men, four women, and five children who remained. The occupation of Alcatraz forced the U.S. government to take seriously the grievances of American Indians. After the occupation, the Red Power movement moved on to protest actions in Washington, D.C., (Trail of Broken Treaties) and at Wounded Knee.

See also *American Indian Movement*; *Deloria, Vine, Jr.*; *Indians of All Tribes*; *Oakes, Richard*; *Self-Determination*; *Trail of Broken Treaties*; *Wounded Knee (1973)*, *Occupation of*.

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BIBLIOGRAPHY

- Johnson, Troy R., ed. *Alcatraz: Indian Land Forever*. Los Angeles: Indian Studies Center, University of California, 1994.
- Smith, Paul Chaat, and Robert Allen Warrior. *Like a Hurricane: The Indian Movement from Alcatraz to Wounded Knee*. New York: New Press, 1996.

Alcohol

The U.S. government regulated the commerce of liquor among the Indians from the beginning of the republic until 1953. Many Indian leaders recognized the dangers of alcohol and approved of the forms of regulation, which included fines and imprisonment for traders selling or introducing alcohol in Indian Country, and fines and imprisonment for Indians caught drinking alcohol. Complete prohibition was attempted at times, even after the Twenty-First Amendment repealing nationwide prohibition was passed. The various changes to the prohibition laws reflected the government's changing Indian policies, and the alcohol laws followed the existing policy. Alcohol is now viewed as a public health issue for Indians and tribes.

Popular culture has produced the myth of the drunken Indian—one who cannot hold his liquor, and who, when drunk, attacks innocent white settlers. This myth allowed the government to consider its regulation of alcohol as good for both Indians and whites. The myth of the drunken Indian also includes the belief that alcohol affects Indians differently than whites—that there is some type of a genetic disposition to alcohol abuse in Indians—but multiple studies have

found no difference in the way Indians metabolize alcohol. Many Indians, prior to European contact, had little cultural context for drinking. For some tribes, the use of fermented beverages was a seasonal tradition, based on crop production and limited and controlled by time and custom. However, many Indians learned drinking behavior by interaction with whites. The people who had the most contact with the Indians, such as soldiers, trappers, traders, and miners, often exhibited antisocial drinking behavior, and Native drinkers sometimes emulated these examples.

While the United States government attempted to control the sale to and abuse of alcohol, it occasionally used ardent (strong) spirits to achieve its ends. The U.S. negotiated hundreds of treaties with the American Indian tribes; in many cases federal negotiators used alcohol in those negotiations as a means to persuade Indians to agree to land cessions.

Early Policy

The colonies entered into trading agreements with local Indian tribes, and such agreements often included limits on the use of alcohol in trade, such as prohibiting traders from selling alcohol to the tribes or regulating its dispensation. Alcohol became a regular and profitable part of trade in the seventeenth and eighteenth centuries, but Indian leaders recognized its potentially destructive effects. Handsome Lake, an Iroquois leader, and other Native prophets warned against the dangers of alcohol and called for abstinence.

Early in 1802 President Thomas Jefferson asked Congress to pass legislation prohibiting liquor consumption by Indians. Jefferson did this at the Indians' request, as the Indians were aware of the negative effects alcohol had on their communities. Jefferson believed such legislation would also have a benefit for the white citizens of the country, as there would be fewer interactions with drunken Indians, which sometimes led to violence. Traders, however, did not want regulations because the alcohol trade was profitable. As historian Richard White has pointed out, alcohol was a product with "elastic" demand; it was the one commodity that Native trading partners sought in increasing amounts. Congress agreed with the president and passed legislation to regulate trade and interaction with the Indian tribes in an effort to preserve peace on the frontiers. The bill authorized the president to take measures to prevent the selling or distributing of spirituous liquors among Indians. All details were left to the president's discretion—when to prohibit, what to prohibit, how to prohibit, and to whom it should be prohibited.

Twenty years later Congress, recognizing that more specific regulatory legislation was needed, passed a bill allowing military officers, Indian agents, and territorial governors to search traders' goods when they suspected that liquor or spirits were being brought into Indian Country. If ardent spirits were found, the law required a forfeiture of all goods.

Trade and Intercourse Act of 1834

The commissioner of Indian affairs was given the responsibility of regulating alcohol. The act creating the office included a clause that prohibited the introduction of liquor and ardent spirits into Indian Country, but it failed to provide for any course of action or penalty if such spirits *were* introduced. Congress responded by passing the Trade and Intercourse Act of 1834 on June 30, which included regulations on the liquor trade. The act provided for a penalty of \$500 for anyone who "shall sell, exchange, or give, barter, or dispose of, any spirituous liquor or wine to an Indian, (in Indian country)." If a person introduced or tried to introduce liquor to Indian Country, he could be fined \$300, although an exception was made for liquor and wine necessary for the officers and troops of the United States. If any federal government official had reason to suspect or was informed that someone was about to introduce liquor, he was allowed to search the person's stores and belongings. If liquor was found, all the property of that person was seized and forfeited, with one half being disbursed to the government and one half to the informer. Additionally, any person employed by the government or any Indian could take and destroy ardent spirits or wine found in Indian Country.

The government, however, did not have the resources to enforce the law in an effective way. Additionally, liquor opened up opportunities for the trade in furs, and traders were willing to take the risk of fines and forfeiture for the large profits to be made from that commerce.

The 1834 act controlled alcohol regulation in Indian country for the next 120 years. In 1847 Congress amended the act by increasing penalties against traders who violated it. It also started penalizing Indians for their consumption of alcohol. Penalties for alcohol-related offenses included imprisonment of up to two years for someone convicted of selling liquor, and up to one year for someone convicted of introducing or attempting to introduce liquor. Indians were considered competent witnesses in these cases. The government also prohibited the distribution of annuities or goods to Indians while the Indians were under the influence of liquor, or if the agent believed that there was liquor in con-

venient reach of the Indians. And no annuities were to be distributed until the tribal chiefs agreed to use their influence to prevent the introduction and sale of liquor on their land.

In its original form, Congress's prohibition only applied to sales in Indian Country and not to individual Indians. Consequently, Indians residing or traveling outside Indian Country could still legally buy alcohol in towns that allowed the sale of spirits. Amendments to the act in 1862 and 1864 provided that no person could sell or provide liquor to any Indian under the supervision of an Indian agent, in or out of Indian Country.

Allotment Policy

In 1887 the federal government passed the General Allotment Act, or Dawes Act. Under the act, individual Indians would be given their own land, and an Indian with a land allotment would become a citizen after twenty-five years. Questions arose regarding the policy: if allotted Indians were citizens, were they subject to the Indian prohibition laws? Also, if the land was now owned individually by Indians, was it still considered Indian Country under the prohibition law? Local courts found that prohibition laws did not apply to Indians with allotments, although Indian agents on the reservations argued that they should. Congress again amended the Trade and Intercourse Act in 1897 and made it illegal for anyone to sell any type of intoxicant to "any Indian to whom allotment of land has been made while the title to the same shall be held in trust by the government" and refined the definition of Indian Country to include allotted land held in trust by the government.

The United States Supreme Court considered the issue in the case of *Matter of Heff* (1905). Albert Heff was convicted of selling liquor to an Indian in Kansas who had received his allotment under the General Allotment Act, and Heff appealed by arguing that the law did not apply because the Indian buyer was a citizen of Kansas and the United States. The Supreme Court found that allotment made the Indian a citizen of the state and subjected him to the laws of the state, of which regulating liquor was normally one. The Court held that if the power was held by the state, the federal government could not regulate in that area, and the act of 1897 therefore did not apply. The Heff case was officially overruled in *United States v. Nice* in 1916. In that case, the defendant sold whiskey to an allotted Indian in South Dakota. In overruling the *Matter of Heff*, the Court found, "As, therefore, these allottees remain tribal Indians and under national guardianship, the power of Congress to regulate or

prohibit the sale of intoxicating liquor to them, as it does by the act of 1897, is not debatable." The commissioner of Indian affairs approved of the decision, as it allowed the department to enforce liquor regulations on all Indians, allotted or not.

The New Deal

National prohibition went into effect in 1920. When it was repealed in 1933, it was not clear if Indian prohibition was also repealed. Although all Indians had become citizens by an act of Congress in 1924, Congress wanted the prohibition laws involving them to continue. It did recognize that the definition of Indian Country needed to be changed, as the lands ceded by the Indians under treaty in the 1800s were now likely to be settled almost completely by whites, who no longer needed or wanted prohibition, and that the allotted lands now held by whites should no longer be considered as Indian Country. Congress did seek to allow those whites with former Indian lands now outside the reservations to buy liquor, and so a law passed in 1934 revoked the application of the special Indian liquor laws to lands no longer held by Indians. Secretary of Interior Harold Ickes believed that Indians on reservations should still be treated differently, however, and should continue to be subjected to the Indian prohibition laws. Prohibition thus remained the government's policy for Indians on reservations throughout the nation, although enforcement remained a problem as bootlegging and smuggling continued to be profitable.

After World War II (1939–1945), many Indian veterans complained to the government that they had been able to obtain liquor while serving in the armed forces but could not legally drink at home. Prohibition, they argued, discriminated against Native people. Various Indian tribes passed resolutions urging that the sale of liquor be permitted to Indians off the reservations. Congress finally revoked Indian prohibition in 1953, declaring that the prohibitions against the sale and use of liquor would not apply in any area that was not Indian Country, or to any acts within Indian Country, which followed state and tribal law. Indians could drink off the reservations, and on reservations alcohol use would be subject to tribal regulations. Most tribes adopted prohibition laws, but they were not imposed on them by the government.

Self-Determination

Indian self-determination became federal policy beginning in the 1960s and 1970s. During this era, the main focus on alcohol changed from one of enforcement of laws through

punishment to one of health care, treatment, and prevention. The Self-Determination and Education Assistance Act of 1975 allowed tribes to contract with the federal government for the delivery of health services, including alcohol and substance abuse treatments and programs. Other laws and amendments, such as the Indian Health Care Improvement Act in 1976 and the Indian Substance Abuse Amendments of 1992, gave the tribes more involvement in creating health services culturally related to Indians. Programs dealing with alcohol use and crime prevention were also funded by the federal government.

Recognizing that substance abuse—including alcoholism—was an extremely severe problem affecting Indians physically, mentally, and economically, and acknowledging that the Bureau of Indian Affairs was not adequately dealing with the problem, Congress passed the Indian Alcohol and Substance Abuse Prevention and Treatment Act (IASAPTA) in 1986. IASAPTA and later amendments provided authority and resources for tribes to develop and implement alcohol abuse treatment programs at the tribal level. This included programs focused on fetal alcohol effects and fetal alcohol syndrome, a major health issue for Indian women and children. The federal government's involvement was to assist the tribes in confronting the effects of alcohol use.

Although most Native Americans do not abuse alcohol, many tribes still suffer the effects of alcohol abuse among their members, and it is a continuing health care issue that involves the tribes, the medical community, and the federal government. Studies and surveys have found that alcohol contributes to homicides, suicides, and motor vehicle accidents, and is a factor in producing higher mortality rates among Native people. Medical and sociological studies have looked at alcohol use of specific tribes over time, and many theories have been put forth about the causes of alcohol use and abuse. However, there is no clear singular explanation for the problem. Poverty, depression, unemployment, and lack of self-esteem are all possible effects of colonialism and are likely factors associated with alcohol abuse. Tribal governments are treating the issue as a medical, cultural, and spiritual problem.

See also *General Allotment Act (Dawes Act) of 1887*; Ickes, Harold L.; Jefferson, Thomas; *Trade and Intercourse Acts*.

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BIBLIOGRAPHY

Baker, Mark T. "The Hollow Promise of Tribal Power to Control the Flow of Alcohol into Indian Country." *Virginia Law Review*, vol. 88, no. 3 (May 2002): 685–737.

- Frank, John W., Roland S. Moore, and Genevieve M. Ames. "Historical and Cultural Roots of Drinking Problems Among American Indians." *American Journal of Public Health*, vol. 90 (March 2000): 344–351.
- French, Laurence Armand. *Addictions and Native Americans*. Westport, Conn.: Praeger, 2000.
- Holmes, Malcolm D., and Judith A. Antell. "The Social Construction of American Indian Drinking: Perceptions of American Indian and White Officials." *The Sociological Quarterly*, vol. 42 (2001): 151–173.
- Kunitz, Stephen J. and Jerrold E. Levy. *Drinking, Conduct Disorder and Social Change: Navajo Experiences*. New York: Oxford University Press, 2000.
- Mancall, Peter C. *Deadly Medicine: Indians and Alcohol in Early America*. Ithaca, N.Y.: Cornell University Press 1995.
- Martin, Jill E. "'The Greatest Evil': Interpretations of Indian Prohibition Laws, 1832–1953." *Great Plains Quarterly*, vol. 23, no. 1 (Winter 2003): 35–53.
- May, Philip A. "The Epidemiology of Alcohol Abuse among American Indians: The Mythical and Real Properties." *American Indian Culture and Research Journal*, vol. 18, no. 2 (1994): 121–143.
- Miller, Robert J., and Marill Hazlet. "The Drunken Indian": Myth Distilled into Reality through Federal Indian Alcohol Policy." *Arizona State Law Journal*, vol. 28, no. 1 (Spring 1996): 223–298.
- Unrau, William E. *White Man's Wicked Water: The Alcohol Trade and Prohibition in Indian Country 1802–1892*. Lawrence: University Press of Kansas, 1996.
- U.S. Statutes at Large 4 (1834): 729.
- United States v. Forty-three Gallons of Whiskey, Etc.*, 93 U.S. 188 (1876).
- United States v. Heff*, 197 U.S. 488 (1905).
- United States v. Nice*, 241 U.S. 591 (1916).

All Indian Pueblo Council

The All Indian Pueblo Council was organized at the Santo Domingo pueblo in New Mexico on November 5, 1922, to defend the integrity of Pueblo lands, communal life, and tribal traditions. In particular, the council worked to defeat the Bursum Bill, which was introduced in Congress to ratify the land titles of non-Indians who had moved onto Pueblo territory and to place Pueblo water rights under the jurisdiction of the state courts. Such legislation would have resulted in the Pueblos losing much of their land.

When information regarding the bill became available, John Collier, a sociologist and Indian rights activist, alerted the Pueblos. The All Indian Pueblo Council drafted "An Appeal by the Pueblo Indians of New Mexico to the People of the United States." In the appeal, the council claimed the Bursum Bill would destroy communal life, customs, land, and tribal traditions (including Pueblo dances, which were thought by many whites to be immoral). A delegation from the council went to Washington, D.C., with Collier to testify before the Senate Committee on Public Lands. As a result of their efforts, as well as public outcry from other activists,

the Bursum Bill was defeated. In 1924 Congress passed the Pueblo Lands Act, a compromise bill that established a Pueblo land board to determine and protect the boundaries of Pueblo landholdings. The law gave the land board the power to examine the claims of non-Indian settlers on Pueblo land and evict those who did not possess legitimate titles.

An All Indian Pueblo Council, Inc. was subsequently established in 1969 as a social service organization to provide the nineteen Pueblo communities of New Mexico with various social, educational, and health programs.

See also *Bursum Bill*; *Collier, John*.

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BIBLIOGRAPHY

Philp, Kenneth R. *John Collier's Crusade for Indian Reform, 1920–1954*. Tucson: University of Arizona Press, 1977.

Allotment in Severalty

Allotment in severalty refers to the division of tribal land into smaller individually owned units (allotments) owned in fee simple title. Starting with the Trade and Intercourse Act of 1790, the federal government began a policy of recognizing “Indian Country,” or the land to the west of the territorial borders of the United States. Land in Indian Country was recognized as belonging to a tribe until acquired by the federal government. American citizens could not buy land directly from Indians, only from the government. The process of allotment converted tribal land into privately owned sections of land that could in turn be sold to other Indians or to settlers.

The first allotments were assigned in the 1800s to members of southeastern tribes. To make land available for an influx of settlers, the federal government’s policy was to relocate (remove) the southeastern tribes to new lands west of the Mississippi River. When the tribes were removed, some Indians were given private title (an allotment) to land they farmed. Allotments were also granted to chiefs who cooperated with the federal government. This was part of an attempt at “peace with honor” with Native tribes as the American population expanded and moved west.

In the 1850s, however, the boundary between white settlement and Indian Country broke down. Reservations were established in hopes of eliminating conflict among Indians and non-Indians and avoid the destruction of the former. Most treaties in the 1850s contained provisions for the future

allotment of the lands set aside for a reservation. Most of the new reservations were west of the Mississippi River, and they continued to be created throughout the nineteenth and early twentieth centuries.

After the Civil War (1861–1865), white settlement continued to push west and by the census of 1890 there was no defined “frontier.” The United States Army had defeated the western tribes and removed them to reservations. The amount of territory available to tribes for hunting declined. In 1881 the area of Indian land totaled 155.6 million acres, much of it arid, and by 1890 the Indian population had declined to less than 300,000. By the late 1800s, the U.S. government became concerned with how to handle settler demands for Indian land while protecting the welfare of the Indian population.

During the 1880s and 1890s, policy debates were dominated by Indian reform organizations based mostly in the Northeast. Influenced by evangelical Protestantism, these groups believed that dividing reservations into privately owned farms would break the power of the Indian chiefs, encourage Indians to become farmers, and hasten the spread of protestant Christianity among Indians. The basis of this belief was a largely inaccurate model of Indian societies popular among social scientists in the 1880s. Each tribe was different, but families often had a recognized use right to land they farmed, and most tribes were far less hierarchical than the reformers believed. Reformers also saw allotment as a way of protecting Indian lands from further loss to trespassing white settlers.

The high point of this movement was Congress’s passage of the General Allotment (Dawes) Act of 1887. The law, which was approved with little opposition, authorized the president to divide a reservation into 160-acre holdings and assign the allotments to the heads of a family. Each person receiving an allotment became a citizen of the United States. Indians who did not live on a reservation could receive an allotment from the public domain. Several tribes, including the so-called Five Tribes in the Indian Territory (the Cherokees, Chickasaws, Choctaws, Creeks, and Seminoles), the Osages, and the Senecas in New York, were not subject to the Dawes Act. To protect Indians unfamiliar with market transactions from fraud or abuse, allotments were to be held in trust for a twenty-five-year period, during which time they could not be leased, sold, taxed, or willed to an heir. At the end of that period, an allottee received full title to his land (a patent in fee). Unallotted land (called surplus land) either remained in tribal control or was sold to the federal

government for sale to non-Indians. Before 1903, any tribe that held its land by treaty had to consent to the sale of surplus lands to the federal government. After the Supreme Court's decision in *Lone Wolf v. Hitchcock* that year, however, lands could be sold without a tribe's consent.

The Five Tribes in Oklahoma

Although the five major tribes in the Indian Territory were exempt from the Dawes Act, political pressure developed to open their lands in what is present-day eastern Oklahoma. Only the tribes could own property in the Indian Territory, although many non-Indians lived there. In 1898 Congress passed the Curtis Act, which dissolved tribal governments in the territory and called for the division of tribal lands among members of the tribe.

The last tribe to divide its lands and cease to govern them was the Creeks, who ratified an allotment agreement in 1901. In total, 15.8 million acres were allotted to 101,506 members of the Five Tribes. Originally, in the Indian Territory a part of each Indian's allotment was held in trust as a "homestead," but the rest could immediately be sold. In 1908 Congress removed all restrictions on the sale of homesteads for tribe members who were half or more non-Indian.

Amendments to the Dawes Act

In 1891 Congress amended the Dawes Act so that each adult received an allotment of 80 acres rather than each head of household receiving 160 acres. More importantly, the amendment allowed the commissioner of Indian affairs to lease allotments to white farmers. In 1902 Congress allowed the commissioner to authorize the sale of heirship allotments, which were allotments of deceased Indians that had been divided among multiple heirs and held in trust status.

A key change in how allotments were administered came with the Burke Act of 1906. The act allowed the Office of Indian Affairs to end the trust period before the end of twenty-five years, or to extend its term. An Indian did not become a citizen until granted a patent in fee (fee simple title), at which time he was no longer treated as a ward of the federal government. In 1907 Congress authorized the commissioner of Indian affairs to sell the allotments of individuals while the land was still in trust status and place the money in a restricted account for the benefit of the allottee. In 1910 Congress allowed Indians in trust status to make wills, in order to prevent the wasteful division of small plots of land among multiple heirs. The effect of these changes

was to make Indians and their property subject to direct bureaucratic supervision on a case-by-case basis. In the years from 1917 to 1920, the Office of Indian Affairs moved to grant a large number of Indians fee simple title and citizenship and end their supervision by the federal government.

Implementation of the Dawes Act

The first reservations to be allotted after the passage of the Dawes Act were in areas then being developed for commercial agriculture. As settlement began in drier areas of the West after 1900, settlers and their representatives in Congress placed more pressure on the Office of Indian Affairs to allot new reservations, since this opened surplus land for sale to whites. Reservations in areas where there was little pressure from outside interests to purchase land or where Indians were using most of the land, such as in the Southwest, were typically not allotted.

The number of allotments issued varied greatly from year to year. Excluding lands of the Five Tribes, 3.7 million acres were allotted between 1888 and 1899. Most of these were on reservations in western Oklahoma, the eastern plains states (Minnesota, the Dakotas, and Iowa), and the western portions of Washington and Oregon. The busiest period for allotment was from 1900 to 1916, when 14.7 million acres were allotted, many on large reservations in the western plains states. The pace then slowed; only 5.4 million acres were allotted from 1916 to 1934.

The uneven process of allotment resulted in all Indians on some reservations receiving their allotments at the same time. On others, especially larger reservations in the West, allotments were issued gradually over many years. Surplus lands sometimes opened to white settlers before Indians received allotments elsewhere on the reservation.

In all, roughly 25.4 million acres were allotted to Indians under the Dawes Act or by special legislation from 1887 to 1933, including 1.6 million acres of land taken from the public domain. Of this total, 16.1 million acres remained in trust status in 1934. Another 15.8 million acres were allotted to members of the Five Tribes between 1897 and 1902, of which 1.4 million acres remained in trust status in 1934.

During this era most tribes lost land, but a few—mainly in New Mexico and Arizona—gained substantial amounts from the public domain, so the total figure is a net of gains and losses. Much of the land loss was from the sale or transfer of surplus lands to the federal government, as well as the removal of individual lands from trust status. Federally recognized land holdings fell from 155.6 million acres in 1890

to 52.6 million acres in 1934, including individual land in trust status (17.6 million acres).

Consequences of the Allotment Policy

The allotment policy as carried out by the federal government in the late nineteenth and early twentieth centuries is often criticized as having mostly failed to promote economic development among Indians. One consequence of the allotment policy was that tribal lands were reduced to 34.3 million acres by 1934, and millions more acres remained under federal supervision. There is no record of how much of the land removed from trust status was still owned by Indians, but a large part of it was undoubtedly sold.

The selling of land was not always against an Indian's best interest, but sometimes land was sold or restrictions against sale removed without the consent of the allottee. Land could also be sold for Indians by agents without their consent. Too often the result was that allottees were defrauded of their land. Heirship lands were a particular problem, since multiple owners of a small parcel could not always agree on what to do with the allotment. Often the only solution was to lease or sell it. For members of the Five Tribes, the terms of their allotment allowed for the immediate sale of all or part of the land allotted. A large number lost their land quickly.

The government sought to justify allotment as a way to promote Indian farming, but a number of Indians were already farmers or ranchers on reservation lands before allotment. The number of Natives working the land instead declined in the early twentieth century. In 1910 there were more than 3.1 million acres of Indian farms in Oklahoma and the ten states with the most allotments. This total declined to less than 2.4 million acres in 1930. The Office of Indian Affairs failed to adequately train Indians to be farmers, left them with little access to credit for improvements or machinery, and sometimes divided reservations into fragmented holdings that were hard to farm efficiently.

The sale of surplus lands and allotted land left some reservations dotted with non-Indian farmers, and in some cases tribal cohesion was weakened. On other allotted reservations, tribes remained united, however.

The obvious economic and health problems of Indians in the 1920s led some to advocate major reforms of Indian programs. The *Meriam Report* of 1927 advocated a restructuring within the existing policy framework. The onset of the Great Depression and the election of Franklin D. Roosevelt in 1932, however, resulted in more drastic institutional change. One section of the Indian Reorganization Act of 1934

ended the allotment of Indian reservations. Problems related to the administration of individual allotted lands held in trust, however, continued throughout the twentieth century.

See also *Bureau of Indian Affairs; Curtis Act; General Allotment Act (Dawes Act) of 1887; Indian Country; Indian Removal; Indian Reorganization Act (1934); Indian Territory; Lone Wolf v. Hitchcock (1903); Meriam Report; Reservations; Trade and Intercourse Acts.*

Leonard A. Carlson

BIBLIOGRAPHY

- Carlson, Leonard A. *Indians, Bureaucrats, and Land: The Dawes Act and the Decline of Indian Farming*. Westport, Conn.: Greenwood Press, 1981.
- Carlson, Leonard A. "Land Allotment and the Decline of American Indian Farming." *Explorations in Economic History*, vol. 18 (April 1981): 128–154.
- Carlson, Leonard A., and Mark A. Roberts. "Indian Removal, 'Squatterism,' and Slavery: Economic Interests and the Passage of the Indian Removal Act of 1830." *Explorations in Economic History*, vol. 43 (July 2006): 486–504.
- Debo, Angie. *And Still the Waters Run: The Betrayal of the Five Civilized Tribes*. Princeton: Princeton University Press, 1940.
- Greenwald, Emily. *Reconfiguring the Reservation: The Nez Percés, Jicarilla Apaches, and the Dawes Act*. Albuquerque: University of New Mexico Press, 2002.
- Hoxie, Frederick. *A Final Promise: The Campaign to Assimilate the Indians, 1880–1920*. Lincoln: University of Nebraska Press, 1984.
- McDonnell, Janet A. *The Dispossession of the American Indians, 1887–1934*. Bloomington: Indiana University Press, 1991.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Snipp, C. Matthew. "American Indians." In *Historical Statistics of the United States: Millennial Edition, Volume I*, edited by Susan B. Carter, et al, 715–777. New York: Cambridge University Press, 2006.
- Young, Mary. *Red Skins, Ruffle Shirts, and Red Necks: Indian Allotments in Alabama and Mississippi, 1830–1860*. Norman: University of Oklahoma Press, 1961.

American Fur Company

John Jacob Astor founded the American Fur Company in 1808 in an attempt to compete with other large fur trading companies, such as the North West Company and the Hudson's Bay Company. The American Fur Company eventually branched out into the Pacific Fur Company and the South West Company. The Pacific Fur Company handled operations in Oregon country, and the South West Company oversaw the Midwestern fur trade.

The American Fur Company established trading posts in the Great Lakes region and traded with many American Indians. The company also established a post in Astoria, Oregon. The War of 1812 (1812–1814) hurt the company, as it lost its Pacific Fur Company and South West Company

branches to the British, who seized Fort Astoria as well. Fortunately for Astor, Congress passed a bill in 1817 that excluded foreign traders from the United States, and the American Fur Company's financial situation recovered. It held a monopoly over the fur trade in many regions, particularly in the Midwest and around the Great Lakes, and was one of the first American trusts. The company often bought out or otherwise put smaller companies out of business.

An example of how the company operated can be found by looking at the Great Lakes region. The American Fur Company's Northern Department was stationed on Mackinac Island, which is strategically located in the Straits of Mackinac, where Michigan's Lower and Upper Peninsulas meet, as do Lakes Huron and Michigan. Great Lakes furs were sent to London, and the company then imported goods to trade with the Indians, such as cloth, utensils, tools, and guns. Elsewhere in the Great Lakes area the fur trade was just as lucrative. In Minnesota and Wisconsin the company was divided into several smaller outfits to handle the volume of the trade. Many of the men in charge of these operations held considerable influence over local Indian affairs, particularly amongst the growing number of Indians who intermarried with the French-Canadian, Scottish, and American traders. The American fur trade would not have been as successful without the help of the Indians, who took part directly by trading for European goods and showing trappers where to hunt.

Astor used his political connections to his advantage. For example, Senator Thomas Hart Benton pushed through the abolition of the War Department's factory system, which competed with Astor's fur trading posts. The company also frequently lobbied Congress for increased regulation of trade and alcohol. When they traded with Indians, fur traders frequently were confronted by missionaries who detested their use of alcohol.

In 1834 John Jacob Astor left the company because he foresaw the decline in the popularity of fur in fashion. The company split into separate parts, and the Pacific Fur Company became independent while the midwestern portion of the company continued under the name American Fur Company. However, it was a losing enterprise, and many trading posts closed, which cut off a source of revenue for the Indians who traded furs at those posts. In addition, new competition surfaced, as did new fashions, such as silk. The American Fur Company had always had serious rivals in the North West Company and the Hudson's Bay Company, and the competition never slowed down. The American Fur

Company folded in 1842. However, during its peak it was one of the largest companies in the United States and helped propel John Jacob Astor into the position of one of the wealthiest men in American history.

See also *Factory System*; *Fur Trade*.

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BIBLIOGRAPHY

- Carlos, Ann M. *The North American Fur Trade, 1804–1821: A Study in the Life-Cycle of a Duopoly*. New York: Garland, 1986.
- Danziger, Edmund. *The Chippewas of Lake Superior*. Norman: University of Oklahoma Press, 1978.
- Lavender, David. *The Fist in the Wilderness*. Lincoln: University of Nebraska Press, 1998.
- Terrell, J. U. *Furs by Astor*. New York: Morrow, 1963.

American Horse

The Oglala Lakota (Sioux) chief American Horse the Younger (c. 1840–1908; Washicun Tashanka) was born in the Black Hills region of present-day South Dakota. He was the nephew of American Horse the Elder (also known as Ironshield or Washicun Tashanka), who was one of the primary leaders of the Lakota forces at the Battle of Little Bighorn on June 25, 1876.

In 1866, during conflicts with the U.S. Army over the Bozeman Trail, American Horse rose to prominence as a leader among his people. Later, convinced that U.S. domination of his homeland was inevitable, he counseled peace and cooperation with the government. In 1887 American Horse was of one of the Lakota chiefs who signed a treaty with the Crooks Commission that reduced the Great Sioux reservation in South Dakota by about one-half. Many of the Lakotas resisted this agreement.

Resentment over the U.S. government's treatment of the tribe and hard times brought on by drought and inadequate rations made the Lakotas on the Pine Ridge reservation especially interested in reports of a new Indian messiah in the West in the late 1880s. In the fall of 1889, American Horse participated in a council of leaders that sent a delegation to meet with Wovoka, the prophet of the Ghost Dance religion. However, when they returned American Horse resisted the adoption of the new religion. In the crisis-filled atmosphere leading up to the Wounded Knee massacre in December 1890, he tried to exert a calming influence on the people at Pine Ridge.

In 1891 American Horse was part of a large delegation of Lakota leaders who traveled to Washington, D.C., to present

the grievances of the tribe to the U.S. government. He died on the Pine Ridge reservation in South Dakota in 1908.

See also *Bozeman Trail War (1865–1868); Wounded Knee Massacre (1890); Wovoka.*

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BIBLIOGRAPHY

Eastman, Charles A. *From the Deep Woods to Civilization: Chapters in the Autobiography of an Indian*. Boston, Mass.: Little, Brown and Co., 1916.

Mooney, James. *The Ghost-Dance Religion and the Sioux Outbreak of 1890*. Washington, D.C.: Government Printing Office, 1890. Reprint, Lincoln: University of Nebraska Press, 1991.

American Indian Chicago Conference

Held at the University of Chicago in June 1961, the American Indian Chicago Conference was a seminal event that helped spark Indian activism during the 1960s. With the encouragement of the administration of President John F. Kennedy, anthropologists Sol Tax, Nancy O. Lurie, and Chicago American Indian Center chief Robert Rietz organized the event as a forum for diverse Native American groups to discuss common problems and recommend solutions. The National Congress of American Indians (NCAI) endorsed the conference and influential Indian leaders D'Arcy McNickle, Helen Peterson, John Rainer, and Clarence Wesley set the program agenda. Ultimately, 460 participants convened in Chicago, representing a broad cross-section of Indian peoples, including members from western reservation tribes, unacknowledged communities, eastern groups, and urban areas.

The conference delegates produced "The Declaration of Indian Purpose," a manifesto that strongly rejected the forced assimilation agenda of the 1950s, emphasized Indian desire to preserve their cultures, and called for self-determination in planning and implementing policy. The declaration further demanded government officials respect treaty rights and called for greater federal assistance in education, industrial development, and welfare services. An unexpected outgrowth of the conference occurred when college-educated participants, dissatisfied with the moderate approach of older tribal leaders within the NCAI, formed the National Indian Youth Council (NIYC) in Gallup, New Mexico, later that summer. The NIYC went on later to lead the Red Power movement. As the largest intertribal meeting of the era, the Chicago conference raised awareness of Indian issues, sig-

naled a new Indian desire to handle their own affairs, and helped bring an end to forced assimilation policies.

See also *Indian Rights Movements.*

Mark Edwin Miller

BIBLIOGRAPHY

Cornell, Stephen. *The Return of the Native: American Indian Political Resurgence*. New York: Oxford University Press, 1988.

Joseph, Alvin M., Jr., Joane Nagel, and Troy Johnson, eds. *Red Power: The American Indians' Fight for Freedom*. Lincoln: University of Nebraska Press, 1999.

Nagel, Joane. *American Indian Ethnic Renewal: Red Power and the Resurgence of Identity and Culture*. New York: Oxford University Press, 1996.

American Indian Defense Association (AIDA)

John Collier founded the American Indian Defense Association (AIDA) in 1923 for the purposes of protecting the religious freedom and tribal property of Native Americans and revitalizing their life and culture. Collier formed the organization after receiving a tour of Native American communities in the early 1920s from Antonio Luhan, a member of the Taos Pueblo in New Mexico. The AIDA membership consisted of middle- and upper-class white people dedicated to Indian rights. By 1932 the organization had 1,700 members.

The AIDA attempted to consolidate various Indian interest groups, particularly the Pueblo people. It lobbied Congress to address problems associated with Indian poverty, to grant Indians greater cultural and religious freedom, and to recognize tribal organizations as legitimate negotiators in policy making. In part due to Collier's efforts in the AIDA, President Franklin D. Roosevelt appointed him the new commissioner of Indian affairs in 1933. In 1934 Collier introduced the "Indian New Deal" with passage of the Indian Reorganization Act of 1934 (also known as the Wheeler-Howard Act). The Indian Reorganization Act reversed the General Allotment Act, or Dawes Act, of 1887, in which the United States had divided Indian territories into tracts and allotted them to individuals. Between 1887 and 1934, the government had used the Dawes Act to take away over 90 million acres of tribal land that had been guaranteed to tribes by treaties under federal law.

In 1936 the AIDA merged with the National Association of Indian Affairs to form the Association of American Indian Affairs, which remained in existence in the early twenty-first century.

See also *Collier, John; General Allotment Act (Dawes Act) of 1887; Indian New Deal; Indian Reorganization Act (1934).*

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BIBLIOGRAPHY

- Kelly, Lawrence C. *The Assault on Assimilation: John Collier and the Origins of Indian Policy Reform*. Albuquerque: University of New Mexico Press, 1983.
- Philp, Kenneth C. *John Collier's Crusade for Indian Reform, 1920–1954*. Tucson: University of Arizona Press, 1977.

American Indian Federation (AIF)

The Indian Reorganization Act's (IRA) planned redirection of federal Indian policy provoked concern and opposition among some Native Americans. On June 8, 1934, as the IRA moved toward congressional approval, a small group of Native Americans assembled in Washington, D.C., founded the American Indian Federation (AIF), and encouraged tribal communities to reject the IRA. Under the presidency of Joseph Bruner (Creek), AIF membership peaked at 3,500 by the time of the organization's dissolution in 1942.

The AIF insisted that federal Indian policy as established and applied by Washington over the previous fifty years still best served Native Americans. Most AIF members were examples of the acculturation program embedded in current policy—highly educated, prosperous, and engaged directly in the broader society. They believed that Indians had to adopt the positive traits and values of white society, secure a sound education, and accept Christianity for their material success and their own survival in modern America, and they maintained that existing federal policy, once tweaked, would ensure this progress. AIF members claimed that the inclusion and true equality of Native peoples in the mainstream population required the abolition of the Office of Indian Affairs and all federal guardianship programs.

The AIF position countered the view of “traditionalist” Indians who saw in the IRA an opportunity to resurrect the cultures of their ancestors. The new federal policy sanctioned traditional religious ceremonies such as the Sun Dance and peyote use, two features of tribal spirituality outlawed by the government decades earlier. Traditionalists wanted tribal lands held in common ownership as in the past, a position taken by the IRA. Moreover, IRA provisions and projects provided by the larger, national New Deal assured Indians of substantial improvements in Indian health care, tribal economics, and educational opportunities.

The AIF battled the traditionalists throughout the 1930s, and as long as the AIF message remained fixed on its fundamental arguments, membership continued to rise. But some individuals within the AIF challenged the IRA as a communist-inspired plan created purposely by persons within the executive branch of government, chiefly Commissioner of Indian Affairs John Collier. Central to their opposition was the IRA's provision for Indian lands to be returned to common ownership rather than remain privately owned. AIF members such as Elwood Towner and Alice Lee Jemison complained that the current Indian Education Service openly praised the model of education employed within the Soviet Union. At their most extreme, Jemison, Towner, and a few others in the AIF openly associated themselves with American fascist groups such as the German-American Bund, the Silver Shirt Legion, and the James True Associates. Although not supportive of the racism central to Nazi ideology, they found among the American fascists a similar anti-communist sentiment and expected to use those newfound connections and financial support to advance the anticommunist argument against the IRA. It was this association in the late 1930s, just as Nazi Germany was moving Europe toward war, which fractured the AIF internally and brought the watchful eyes of the federal government upon the organization.

The federation actually accomplished little in its short existence. Arguments for or against the IRA and other reform programs emanating from Washington were typically fought within individual tribal groups, among tribal members, and for reasons most often unique to themselves, their particular circumstances, and their own long-term relationship with the federal government. The AIF, however, succeeded in giving a united voice to a large segment of well-accultured American Indians and was, in part, responsible for the government abandoning the IRA for a renewed focus on Indian assimilation as the post–World War II policy.

See also *Assimilation and Acculturation; Collier, John; Indian New Deal; Indian Reorganization Act (1934).*

Kenneth William Townsend

BIBLIOGRAPHY

- Daily, David W. *Battle for the BIA: G. E. E. Lindquist and the Missionary Crusade Against John Collier*. Tucson: University of Arizona Press, 2004.
- Hauptman, Laurence. “The American Indian Federation and the Indian New Deal: A Reinterpretation.” *Pacific Historical Review*, vol. 52 (November 1983): 378–402.

Kelly, Lawrence. *The Assault on Assimilation: John Collier and the Origins of Indian Policy Reform*. Albuquerque: University of New Mexico Press, 1983.

Philp, Kenneth R. *John Collier's Crusade for Indian Reform, 1920–1954*. Tucson: University of Arizona Press, 1977.

Townsend, Kenneth William. *World War II and the American Indian*. Albuquerque: University of New Mexico Press, 2002.

American Indian Law Center (AILC)

The American Indian Law Center (AILC), located in Albuquerque, New Mexico, is the oldest Indian-controlled research and policy organization in the United States. The AILC grew out of the University of New Mexico's creation in 1967 of the Special Scholarship Program in Law for American Indians. The center was separated from the university in 1977 and became an independent, non-profit organization. It is still housed at the university and maintains close ties to it.

The AILC conducts training for lawyers and judges, assists in drafting model codes, and serves as court administrator for the Southwest Intertribal Court of Appeals. Its most significant program, however, is the Pre-Law Summer Institute (PLSI), which began as the Special Scholarship Program. The PLSI was designed as an eight-week summer course to encourage and prepare Indians for law school. When it began in 1967, fewer than twenty-five Indian attorneys and fifteen law students were identified in the entire United States. Over the forty years of its existence, the number of Indian attorneys has grown to several thousand and the number of Indian law students is in the hundreds. Approximately one-half of these attorneys and law students are graduates of the PLSI.

Former commissioner of Indian affairs Robert L. Bennett served as AILC's director from its founding until his retirement in 1972. Philip S. (Sam) Deloria served as director from 1972 until 2007, when he retired and was replaced by Helen Padilla.

Melissa L. Tatum

BIBLIOGRAPHY

Deloria, Philip S. "The American Indian Law Center: An Informal History." *New Mexico Law Review*, vol. 24 (1994): 285–307.

American Indian Movement (AIM)

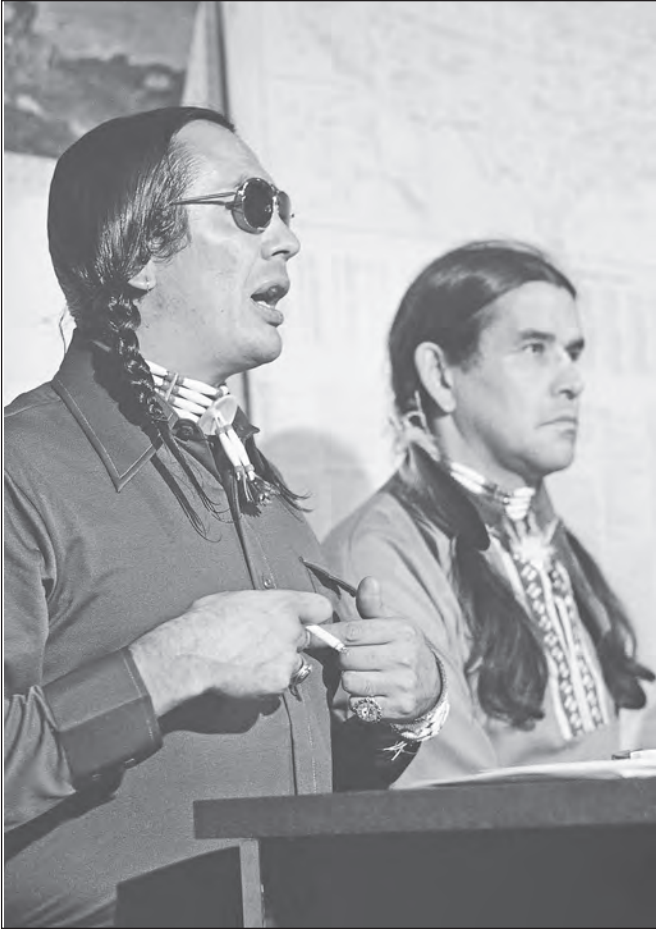
The American Indian Movement (AIM) was founded in 1968 by Chippewa Indians Clyde Bellecourt, Eddie Banai, Dennis Banks, and Mary Jane Wilson. The organization arose out of concerns of Native Americans in Minneapolis, Minnesota, over the living conditions of city-dwelling Indians. AIM members coordinated a patrol to monitor police activities in Indian neighborhoods and to prevent unjust arrests and police mistreatment of Indian residents. AIM ultimately extended its area of concern to include reform of relations between Indians and the federal government. To this end, AIM carried out the 1970 occupation of Mt. Rushmore and the Trail of Broken Treaties caravan to Washington, D.C., in 1972. The latter ended with the seven-day occupation of the Bureau of Indian Affairs (BIA) headquarters building.

Alcatraz, the Mayflower II, and the Trail of Broken Treaties

In June 1970, Dennis Banks and other AIM members traveled to San Francisco to lend support to the American Indian students who had occupied Alcatraz Island. The students occupied the island in November 1969 and held it until July 1971. Incorporated as Indians of All Tribes, the group demanded that title to Alcatraz be returned to the Indians and that an Indian university, cultural center, museum, and training school be built on the site of the former federal prison. Their mantra was "Indian self-determination without termination."

AIM members remained on the island for approximately two weeks, giving advice on security and logistics. AIM leaders learned from the Alcatraz Island occupiers as well. They saw that the use of the national and international media could be used to hold the federal law enforcement agencies at bay.

On November 26, 1970, AIM, led by Russell Means, seized control of the Mayflower II, a replica of the original *Mayflower*, in Plymouth, Massachusetts. Means and members of twenty-five Indian tribes proclaimed Thanksgiving a national day of mourning to protest the taking of Native American lands by white colonists. They credited the occupation of Alcatraz Island as the symbol of a newly awakened desire of the Indians for unity and authority in the white world.



American Indian Movement leader Russell Means, left, and Clyde Bellecourt, right, speak after the shooting death of an AIM member by Bureau of Indian Affairs police near Pine Ridge, South Dakota, in 1973.

In 1972 AIM organized a national cross-country caravan known as the Trail of Broken Treaties, a nationwide protest march on Washington, D.C. The march originated on Alcatraz Island following the death of Richard Oakes, spokesperson for the Alcatraz takeover, and resulted in the seventy-one hour occupation of the BIA headquarters. Here AIM leaders presented a twenty-point manifesto demanding redress of wrongs against Indian nations and peoples.

“Red Power” and AIM

The Red Power movement received its impetus from the Black Power movement of the 1950s and 1960s and began with the 1969 occupation of Alcatraz Island. Young Indians, particularly those attending colleges under the government’s Office of Economic Opportunity (OEO) programs, began to see what could be accomplished through protest activities and media attention. Unlike the Black Power movement, the

Red Power movement originally focused on nonviolent confrontation, such as the takeover of abandoned federal facilities. Once weapons and violent tactics were introduced, however, the Red Power movement was targeted by the Federal Bureau of Investigation (FBI) for elimination.

AIM rose to prominence in Red Power protests after the occupation of Alcatraz Island and exercised a great deal of influence in the movement. AIM protest activities and strategies moved through Indian communities via Indian social and kin networks, and through the “powwow circuit,” which passed information along to Indian families engaged in travel between the cities and reservations. Perhaps the most important factor was the manipulation of the news media—AIM leadership became particularly skillful at encouraging journalists to dramatize Indian problems and protests.

The involvement of urban Indian individuals and groups such as AIM in protest actions sited on reservations exacerbated tensions that already existed inside Indian communities. These tensions were not only between urban and reservation Indians, or between AIM and tribal governments, they also arose out of the political divisions on reservations themselves. All of these tensions became magnified as the activism of the 1970s progressed. The tone of protest became less celebratory and more violent. No single event of the Red Power movement era illustrated the combination of Indian grievances and community tensions more clearly than the events on the Pine Ridge reservation in the spring of 1973, a ten-week siege which came to be known as Wounded Knee.

Wounded Knee (1973)

The conflict at Wounded Knee, a small town on the Pine Ridge reservation in South Dakota, was both a high- and low-water mark for the American Indian Movement. In the spring of 1972, the BIA backed the questionable election of Richard “Dickey” Wilson as tribal chair of the Oglala Sioux Nation. Wilson practiced nepotism in allocating jobs and tribal funds, and, as a result, traditionalists had no voice in tribal government and were left jobless and destitute. They turned to AIM for support. Wilson offered a threat and a challenge to AIM leader Dennis Banks, stating that he would cut off Bank’s Indian hair braids if Banks set foot on the Pine Ridge reservation. By February 1973 a major confrontation was brewing, and by the end of the month armed Indians, aided by AIM, had occupied the reservation.

The goals of the occupation, as outlined by AIM leaders, included supporting the reformation of tribal government

and bringing attention to Native American grievances. AIM leaders specifically wanted a hearing to take place concerning treaty violations by the U.S. government and the reinstitution of treaty making and treaty rights that had formally ended in 1871. Gunfire was exchanged between government forces and AIM security throughout the occupation. U.S. marshal Lloyd Grimm received an injury that paralyzed him from the waist down. A Cherokee Indian, Frank Clearwater, received a fatal wound while asleep on a cot in an occupied church. Lawrence Lamont, a Lakota resident of the Pine Ridge reservation, was shot and killed on April 26th. Following the two deaths, both sides agreed upon a tenuous cease-fire.

The U.S. government and the AIM leadership developed a series of proposals that were rejected by one side or the other. In late March an agreement was signed. The terms of the agreement stated that the Wounded Knee occupiers would agree to lay down their weapons, and Russell Means and any occupiers with outstanding warrants would be arrested. By May 8, 1973, the takeover had ended. Hunger, lack of electricity, low morale, and the inability to bring new Indian blood onto the Wounded Knee compound ultimately doomed the occupation, which lasted a total of seventy-one days. Many of the AIM members involved in Wounded Knee spent the next years in courtrooms, in hiding, or in prison as a result of that siege and the later 1975 shootout with FBI agents at the Jumping Bull compound.

Over four hundred people were arrested at Wounded Knee. Seven defendants were charged with major conspiracy and 127 were faced with charges of breaking and entering, larceny, conspiracy, and interfering with federal marshals. Ninety-seven persons were charged and tried in the tribal courts of the Oglala Sioux for riot or unlawful assembly as defined in the tribal code.

After Wounded Knee

Following the Wounded Knee occupation, AIM leaders were either in prison or hiding in the United States or Canada. They had failed to develop a funding base, and, more importantly, caught up in the media frenzy surrounding them, they did not seek out or train a next generation of activists that could resurrect AIM and reinvigorate the Red Power movement.

The final blow to the American Indian Movement came in June 1975 when two FBI agents, Jack Coler and Ron Williams, entered the Jumping Bull compound on the Pine Ridge reservation in South Dakota. Coler and Williams were

allegedly in pursuit of Jimmy Eagle, an Indian they were attempting to serve with a warrant in connection with the theft of a pair of cowboy boots. Driving an unmarked vehicle, Coler and Williams entered the compound where members of AIM, who had been invited by the Jumping Bull elders, were camped. For reasons that remain unclear, gunfire broke out. When the shooting ceased, Coler and Williams were dead, both shot through the head at close range. A young Indian named Joe Stuntz was also killed, shot by a sniper bullet. The government charged and convicted Leonard Peltier for the death of the two FBI agents.

The American Indian Movement as a unified national organization ceased to exist by the early twenty-first century. Competing incarnations under various versions of the name continued to advocate for the interests of American Indians, as did many of the original members and leaders of AIM.

See also *Alcatraz Island, Seizure of; Banks, Dennis; Bellecourt, Clyde; Peltier, Leonard; Trail of Broken Treaties.*

Troy R. Johnson

BIBLIOGRAPHY

- Crow Dog, Mary, with Richard Erdoes. *Lakota Woman*. New York: Harper Perennial, 1990.
- Grossman, Mark. *The Native American Rights Movement*. Santa Barbara: ABC-CLIO, 1996.
- Hendrick, Steve. *The Unquiet Grave: The FBI and the Struggle for the Soul of Indian Country*. New York: Thunder Mouth Press, 2006.
- Johnson, Troy R. *The Occupation of Alcatraz Island: Indian Self-Determination and the Rise of Indian Activism*. Chicago: University of Illinois Press, 1996.
- Johnson, Troy R., Joane Nagel, and Duane Champagne. *American Indian Activism: Alcatraz to the Longest Walk*. Chicago: University of Illinois Press, 1997.
- Lazarus, Edward. *Black Hills, White Justice: The Sioux Nation versus the United States, 1775 to the Present*. New York: Harper Collins Publishers, 1991.
- Means, Russell. With Marvin J. Wolf. *Where White Men Fear to Tread: The Autobiography of Russell Means*. New York: St. Martin's Press, 1995.
- Sayer, John W. *Ghost Dancing the Law: The Wounded Knee Trials*. Cambridge: Harvard University Press, 1997.
- Smith, Paul Chaat, and Robert Allen Warrior. *Like a Hurricane: The Indian Movement from Alcatraz to Wounded Knee*. New York: The New Press, 1996.

American Indian Policy Review Commission (AIPRC)

In 1975 Congress passed Public Law 93-580, which established the American Indian Policy Review Commission (AIPRC). Under the leadership of Senator James Abourezk (D-S.D.), the AIPRC's eleven members headed research task

forces that held public hearings, interviewed tribal leaders, and conducted field investigations in Indian Country. The commission studied the status and living conditions of American Indians and tribes in order to make recommendations to Congress and the Bureau of Indian Affairs (BIA) for improving their situation. After two years, the commission presented its two-volume, 923-page report to Congress in May 1977.

The report's findings influenced Congress to enact legislation instrumental to improving American Indians' quality of life, including the Indian Child Welfare Act of 1978 and the Joint Resolution on American Indian Religious Freedom (1978). The Senate created a Committee on Indian Affairs, which replaced the AIPRC; the Department of Education created an Office of Indian Education. The Department of the Interior elevated the position of commissioner of Indian affairs to that of assistant secretary of Indian affairs, and the BIA prepared criteria for the recognition of previously unrecognized tribes. Also at the AIPRC's recommendation, Congress restored the tribal status of tribes subjected to the mid-1950s policies of termination, which had removed significant portions of tribal lands from trust status, extended state jurisdiction in some regions, and ended direct government relationships with 109 tribes.

The AIPRC's report also led to a renewed emphasis on the idea of the "trust relationship" in American Indian affairs. This idea highlighted principles of tribal sovereignty and self-determination and made possible much of the tribal growth and development evident by the early twenty-first century.

See also *Abourezk, James; Indian Child Welfare Act; Self-Determination; Termination.*

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BIBLIOGRAPHY

- American Indian Policy Review Commission. *Final Report of the American Indian Policy Review Commission*. Washington, D.C.: Government Printing Office, 1977.
- Brown, Anthony D., ed. *New Directions in Federal Indian Policy: A Review of the American Indian Policy Review Commission*. Los Angeles: American Indian Studies Center, University of California, 1979.
- Edmunds, R. David. "Native Americans and the United States, Canada, and Mexico." In *A Companion to American Indian History*, edited by Philip J. Deloria and Neal Salisbury, 397–421. Malden, Mass.: Blackwell Publishing, 2002.
- The Harvard Project on American Indian Economic Development. *The State of the Native Nations: Conditions under U.S. Policies of Self-Determination*. New York: Oxford University Press, 2008.

American Indian Religious Freedom Act (AIRFA; 1978)

The American Indian Religious Freedom Act of 1978 (AIRFA) was a joint resolution of the Senate and House of Representatives (42 U.S.C. 1996) passed during the early self-determination era of U.S. policy toward Native Americans. While AIRFA was much-heralded, it actually had no enforcement provision. Rather it was a broad policy statement declaring that "the lack of a clear, comprehensive, and consistent federal policy has often resulted in the abridgement of religious freedom for traditional American Indians." The resolution went on to affirm that "it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise" their traditional religions, including "access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites." AIRFA ended by requiring federal departments to "evaluate their policies and procedures in consultation with native traditional religious leaders" and report back to Congress.

AIRFA was a reaction to the history of repression of American Indian spiritual beliefs and practices that reached back to the founding of the United States. While the First Amendment to the U.S. Constitution guarantees free exercise of religion, that right had never been extended to include the religious practices of the continent's indigenous populations. The active repression of those practices in the 1800s was part of the larger U.S. policy of erasing Native cultures and assimilating Native individuals into the mainstream culture. This repression ranged from refusal to let Native court witnesses take an oath using an eagle feather to massacring dozens of Lakota (Sioux) at Wounded Knee, South Dakota, in 1890, in an attempt to stop the practice of the Ghost Dance. As a result, indigenous religions went underground, and Indians became highly protective of their practices and of the exact locations of many sacred sites.

AIRFA was the result of years of lobbying by Native organizations and tribal governments in an effort to gain protection of their beliefs, practices, and sacred sites. It was partly necessary because, in many situations, reservations did not include sites of critical spiritual significance. This made it difficult or impossible for Native practitioners to legally access state, federal, and private property in order to continue centuries-old practices.

While the evaluation of federal policies and procedures that AIRFA mandated was completed by the Native American Rights Fund, the American Indian Law Center, and the Native American Religious Advisory Board, the resolution was a disappointment. Its author, Rep. Morris Udall (D-Ariz.), observed that AIRFA was toothless and did not change any law. And because it was not enforceable, it was basically ignored, particularly at first.

Federal court decisions stated that attempts by Indians to practice their spiritual beliefs under AIRFA violated the establishment clause of the First Amendment to the U.S. Constitution. That clause forbids government support of any particular religious practice. Because a high proportion of sacred sites are located on lands controlled by federal agencies, federal permission for Native religious practices in the interest of “free exercise” of religion became labeled as a forbidden “establishment” of religion. For example, in 1980, Navajo requests for exclusive use of the Rainbow Bridge area in Utah during ceremonies were blocked on this basis in *Badoni v. Higginson* (1981).

In one of the best-known cases drawing on AIRFA, the U.S. Supreme Court held in 1988 in *Lyng v. Northwest Indian Cemetery Protective Association* that the federal government could pave a six-mile section of a dirt logging road in California. The road, known as the “G-O Road,” traversed lands controlled by the U.S. Forest Service. The area was central to the Yurok, Karok, and Tolowa tribes, which used it for ceremonies and as a training and renewal ground for its youth and spiritual leaders. In effect, the Court said that American Indians had a right to their *beliefs*, but not to the ability to *practice* those beliefs.

In reaction to the *Lyng* decision and to a 1990 decision regarding religious use of peyote (*Employment Division v. Smith*), AIRFA was amended in 1993 with broad support from a variety of religious organizations. The amendment reinstated the need to prove that there was a “compelling government interest” before freedom of religious exercise could be abridged. In 1994, further amendments designed to protect sacred sites, Indian prisoners’ rights to religious practices, and the acquisition and use of bird and animal parts in religious ceremonies failed to pass. But an amendment designed to protect the use of peyote, a hallucinogen derived from certain cacti, in traditional ceremonies succeeded. In 1996, President Clinton issued Executive Order 13007, which attempted to further define federal agencies’ responsibilities to “accommodate access to and ceremonial use of Indian

sacred sites” and “avoid adversely affecting the physical integrity of such sacred sites.”

Most major land management agencies, including the National Park Service, U.S. Forest Service, and Bureau of Land Management, have moved toward greater compliance with the spirit of AIRFA. For example, the National Forest Service has protected the Medicine Wheel site in Wyoming, and the National Park Service has cooperated with Indian communities in discouraging rock climbing at Devil’s Tower National Monument during June, a key ceremonial time. AIRFA is also considered a predecessor to the Native American Graves Protection and Repatriation Act of 1990.

Other practices and places have, however, not been protected. A federally supported astronomical observatory was built on Mount Graham in Arizona, a site sacred to the Apache. Bear Butte (Mato Paha) is managed as a South Dakota State Park. It is the most sacred location on the Great Plains, used ceremonially by over thirty indigenous nations. Despite Indian protests, a campground and large amphitheater were built near the butte in 2006 to accommodate visitors to the Sturgis Motorcycle Rally.

In short, AIRFA is an important policy statement, but the resolution of controversies involving American Indian religious freedom continues to be accomplished on a case-by-case basis.

See also *Employment Division v. Smith* (1990); *Lyng v. Northwest Indian Cemetery Protective Association* (1988); *Native American Church; Religious Freedom*.

Lilias C. Jones Jarding

BIBLIOGRAPHY

- Badoni v. Higginson*, 638 F.2d 172; *cert. denied* 452 U.S. 954 (1981).
 Deloria, Vine, Jr. *For This Land: Writings on Religion in America*. New York: Routledge, 1999.
Employment Division v. Smith, 494 U.S. 872 (1990).
 Grounds, Richard A., George E. Tinker, and David E. Wilkins, eds. *Native Voices: American Indian Identity and Resistance*. Lawrence: University Press of Kansas, 2003.
Lyng v. Northwest Indian Cemetery Protective Association, 485 U.S. 439 (1988).
 Sherman, Marlon. *Report of the Native American Sacred Lands Forum*. Boulder and Denver: Native American Sacred Lands Forum, 2001.
 Vescey, Christopher. *Handbook of American Indian Religious Freedom*. New York: Crossroads Publishing Co., 1995.
 Weaver, Jace, ed. *Native American Religious Identity: Unforgotten Gods*. Maryknoll, N.Y.: Orbis Books, 1998.
 Wilkins, David E. *American Indian Sovereignty and the U.S. Supreme Court: The Masking of Justice*. Austin: University of Texas Press, 1997.
 Wunder, John R., ed. *Native American Cultural and Religious Freedoms*. New York: Garland Publishing, Inc., 1999.

American Revolutionary War (1775–1783)

The American Revolutionary War ended in a political and military triumph for the Americans who rebelled against the British Crown. Its impact on Native Americans was less clear. Some Indian nations, like the Six Nations of Iroquois, suffered immense hardship during the conflict, their fields and towns destroyed by American troops, and hundreds of men, women, and children killed by injury or starvation. Others, like the Chickasaws, participated in the fighting but suffered no ill effects from the war itself. Still others, like the Plains Indian tribes, heard little of the revolution and were more concerned with the smallpox epidemic that swept through the Americas during the war. In the long term, however, the war had negative consequences for Native North Americans: it caused many white Americans to regard Indians as an enemy race fit only for expulsion or elimination, and they therefore began laying the perceptual foundation for the U.S. government's nineteenth-century Indian removal policy.

Indian Recruitment and Native Agendas

From the very start of the war, both British officers and American officials recruited Indian warriors into their armies. In 1775 Mahicans from the town of Stockbridge, Massachusetts, volunteered for service with the Continental Army, while Mohawk warriors fought American soldiers in the Saint Lawrence Valley during the Quebec campaign of 1775–1776. In subsequent years both armies employed Native Americans as scouts, auxiliaries, and line soldiers, paying them usually in trade goods and military equipment such as guns, medals, and uniforms. The two armies also periodically bought corn, meat, and other supplies from Native American men and women.

Britain's superior military resources, however, allowed its officers and agents to offer larger payments to Indian recruits. In addition, the British government had by 1775 developed a network of experienced Indian agents, commissaries, and traders with close ties to Indian communities. Native American warriors were therefore likelier to heed British agents' requests for military assistance than those of unfamiliar rebel agents. Finally, several Indian nations, like the Shawnees and Cherokees, had standing grievances against the American colonists, who had stolen their land in shady deals, murdered Indian travelers, and poached game

from tribal hunting preserves. These factors helped ensure that more Native Americans would ally with King George III than with George Washington. During the course of the conflict, at least twelve thousand Iroquois, Great Lakes, and southeastern Indians fought against the rebels, while only about one-tenth that number—mainly from small Indian nations like the Catawbas, Oneidas, and Penobscots—fought on the side of the United States.

The Destructive War: The Cherokees, the Ohio Valley, and the Six Nations

The first major military operation involving large numbers of Native Americans was the Cherokee campaign of 1776. Early that year, Cherokee warriors raided and plundered white settlements on the southeastern frontier. The Americans attributed the attacks to British instigation, but the Cherokee raiders were actually protesting their chiefs' recent land sales and displaying solidarity with Shawnee warriors who had asked them to join a pan-Indian military confederation. The governments of Virginia and North and South Carolina did not inquire into the Cherokees' motives, instead authorizing state militia to invade Cherokee country in the summer and fall and destroy over forty towns, along with orchards and cornfields. Cherokee chiefs sued for peace, but a militant faction known as the Chickamaugas continued to fight the Americans until the end of the war. Southern state militias thus continued to burn Cherokee towns in retaliation for Chickamauga raids. The Cherokees endured new American invasions every year from 1779 to 1782.

Meanwhile, warriors from the Northwest Indian nations—the Shawnees, Wyandots, Ojibwes, and others—conducted a simultaneous offensive against the new white settlements in central Kentucky and the frontier villages of southwestern Pennsylvania. From 1776 to 1778, Shawnee and allied Indian gunmen attacked farmsteads and travelers in the Ohio Valley and returned home with prisoners, plunder, and scalps. Frontier settlers responded by building block-houses, organizing patrols, and conducting the occasional attack on Native American noncombatants (like Edward Hand's murder of thirty Delaware women in the 1778 "squaw campaign"). In 1778–1779 Virginia militia under George Rogers Clark captured the British-held towns of Kaskaskia, Cahokia, and Vincennes, leading to a temporary halt of Indian raids. During the early 1780s, however, Iroquois and Lakes Indian warriors, reinforced with British troops and Loyalist militia, destroyed or besieged American settlements like Bryan's Station, Kentucky, and Hannastown,

Pennsylvania. Kentucky and Pennsylvania militia burned Delaware and Shawnee towns in retaliation; in one notorious incident in 1782, Pennsylvania militia slaughtered ninety-five pacifist Moravian Delawares in the village of Gnadenhutten, in present-day Ohio.

In the northeast, the Six Nations of Iroquois initially proclaimed their neutrality, but by 1777 the nations of the Iroquois League had chosen sides. The Oneida and Tuscarora nations allied themselves with the United States, while the majority of Iroquois, including the English-educated Mohawk Joseph Brant, elected to fight for the British. Iroquois warriors fought on both sides at the Battle of Oriskany (1777), when American and Oneida militia halted Barry St. Leger's advance from Oswego to Albany. In 1778, Mohawk and Seneca warriors destroyed the American settlements at Cherry Valley, New York, and in Pennsylvania's Wyoming Valley, killing five hundred people and provoking the most devastating American reprisal of the war. Between July and September 1779, Continental Army soldiers under Daniel Brodhead and John Sullivan invaded the Iroquois homeland in western New York, destroying over forty towns, killing over one thousand Iroquois, and forcing the survivors to take refuge at Fort Niagara. Iroquois warriors continued to raid American frontier settlements until 1782, but the Iroquois never recovered from the blow that Brodhead and Sullivan had inflicted.

The Peripheries of Revolution

The war had a less dramatic impact on the rest of Native North America. In the lower South, the wartime disruption of the fur trade led to the lack of basic necessities for many southeastern Indians, making it easier for British agents to recruit gunmen with promises of gifts and medals. Indian superintendent John Stuart recruited over one thousand Creek warriors, including the biracial, English-educated Alexander McGillivray, as military allies. Creek gunmen participated in the capture of Augusta, Georgia, in 1779, and the defense of Pensacola, Florida (1781), and Savannah, Georgia (1782). Meanwhile, British agents induced several hundred Choctaw and Chickasaw warriors to harass Spanish shipping on the Mississippi River. The American soldiers themselves had few Indian allies in the region, with the noteworthy exception of the Catawbans, who supplied rebel troops with food, allowed militia leader Thomas Sumter to use their reservation as his headquarters, and contributed warriors to the 1776 Cherokee campaign and to Carolina militias' partisan war with the Loyalists.

West of the Mississippi River the war had little impact, though several hundred Sauk, Sioux, and Ojibwe warriors did help British soldiers make an unsuccessful attack on Spanish-held Saint Louis in 1780. For the trans-Mississippi Indians, the most important event of the era was the smallpox epidemic that swept out of Mexico City in 1779 and spread across the Americas from Hudson's Bay, Canada, to Peru, killing at least sixty thousand Native Americans before it subsided in early 1783.

The War and Anti-Indian Sentiment

The political outcome of the Revolutionary War—that is, the establishment of an independent American republic—was in many respects its most dire consequence for Native North Americans. The alliance or co-belligerence of most of the trans-Appalachian Indians with Britain caused many white Americans to label them an enemy race that needed to be expelled from the United States. American political leaders encouraged this view by referring to Woodland Indian military tactics such as guerilla raids, surprise attacks, and the scalping or torture of captives, as atrocities and by using them as recruitment propaganda, even though American soldiers employed the same tactics against Indians. At the war's end both the U.S. Congress and the state governments demanded that the trans-Appalachian Indians cede millions of acres of land to the United States, as compensation for their "atrocities."

Great Britain, for its part, was in a poor position to help its former Indian confederates. By the Treaty of Paris (1783), the British government not only gave the United States its independence, but also surrendered to it all Crown claims south of the Great Lakes. Effectively, this withdrew British protection from over 100,000 Native Americans residing between the Appalachian Mountains and the Mississippi River. News of the treaty provoked dismay and concern among many Indian leaders; one told British officers that "in endeavoring to assist you it seems we have wrought our own ruin" (Detroit Indian Council Minutes, 28 June 1783, Historical Collections of the Michigan Pioneer and Historical Society, 1876–1912). In 1784 the governor of Canada gave a large land reserve on the Grand River (in present-day Ontario) to 1,800 Loyalist Iroquois, Delawares, and Nanticokes, all of whom had fled from the United States during the war. In addition, until 1796 Britain occupied eight forts in the northwestern United States, from which British traders continued to supply Indian warriors with goods and advice. These small tokens of British gratitude and

concern were only useful, however, to a minority of George III’s Indian allies.

Meanwhile, those few Indians who had allied themselves with the United States found their former allies were not grateful. State governments sought land cessions from the Penobscots, Stockbridges, Oneidas, and other Indian nations that had supported them during the war, confident that these “friendly” Indians would not use force against them or seek help from the British government that they had helped white Americans defeat.

See also *Cherokee War of 1776; Paris (1783), Treaty of; Race and Racial Thinking.*

David A. Nichols

BIBLIOGRAPHY

- Calloway, Colin. *The American Revolution in Indian Country: Crisis and Diversity in Native American Communities*. Cambridge: Cambridge University Press, 1995.
- Corkran, David H. *The Creek Frontier, 1540–1783*. Norman: University of Oklahoma Press, 1967.
- Dowd, Gregory Evans. *A Spirited Resistance: The North American Indian Struggle for Unity, 1745–1815*. Baltimore, Md.: Johns Hopkins University Press, 1992.
- Downes, Randolph. *Council Fires on the Upper Ohio*. Pittsburgh, Penn.: University of Pittsburgh Press, 1940.
- Fenn, Elizabeth. *Pox Americana: The Great Smallpox Epidemic of 1775–1782*. New York: Hill and Wang, 2001.
- Graymont, Barbara. *The Iroquois in the American Revolution*. Syracuse, N.Y.: Syracuse University Press, 1972.
- Higginbotham, Don. *The War for American Independence: Military Attitudes, Policies, and Practice, 1763–1789*. Bloomington: Indiana University Press, 1971.
- Merrell, James. *The Indians’ New World: Cataubas and Their Neighbors from European Contact through the Era of Removal*. Chapel Hill: University of North Carolina Press, 1989.
- Mintz, Max. *Seeds of Empire: The Revolutionary Conquest of the Iroquois*. New York: New York University Press, 1999.

Anderson, David

David W. Anderson (1953–) is a Choctaw and Ojibwe Indian who was assistant secretary of the U.S. Bureau of Indian Affairs from 2004–2005. Chosen for the position because of his background as an entrepreneur and philanthropist, while in office Anderson became involved in a controversy over a gambling company now known as Lakes Entertainment. He was a former associate of the owner, Lyle Berman. Although Anderson and Berman had not been in business together for ten years, Anderson was criticized for the relationship and agreed not to involve himself in any gambling issues as assistant secretary. He instead focused on

other ways of improving the lives of Native Americans. Anderson is also the owner of the well-known Famous Dave restaurant chain.

See also *Gaming.*

Justin Corfield

BIBLIOGRAPHY

- “David Anderson Sworn in as Assistant Secretary,” *U.S. Department of the Interior*, February 2, 2004, www.doi.gov/news/04_News_Releases/040202f.htm (accessed June 19, 2008).

Anderson, Wallace “Mad Bear”

Wallace “Mad Bear” Anderson (1927–1985) was a member of the Bear Clan of the Tuscarora Nation of the Iroquois Confederacy. Anderson was an influential medicine man and leader and a longtime champion of Indian rights. He served with the Navy during World War II and later in the merchant marines before retiring in 1977.

During the 1950s Anderson participated in the initial “unity caravans” among northern Indian traditionalists. In 1957, he helped the Mohawks fend off a New York State income tax on the grounds of Indian sovereignty on Indian reservations. He led a protest group of several hundred Indians from the St. Regis Reservation to the Massena, New York, courthouse, where they tore up summonses for non-payment of state taxes.

In April 1958, Anderson led a stand against land seizures planned by the New York Power Authority, which intended to expropriate 1,383 acres of Tuscarora land for the building of a reservoir. When the Tuscaroras refused to accept the state’s purchasing offer, armed state troopers and police invaded their lands. The troops were met by a nonviolent front of 150 Indians, led by Anderson, blocking the road. Anderson and other leaders were arrested, but the media attention forced the power company to back down. The *Buffalo Courier Express* reported that Anderson was primarily responsible for the tribe’s decision to physically confront the power company and police. Anderson also participated in the declaration of sovereignty on the Six Nations (Haudenosaunee) Reserve that resulted in an armed stand-off with the Canadian Mounted Police.

In 1967, Anderson helped form the Native American Indian Unity Caravan that originated on the Tonawanda Seneca Indian reservation and crossed North America. The caravan was supported by over twenty tribal communities and became the driving force for the founding of the North

American Indian Traveling College, which provided cultural and educational training and resources to isolated tribal communities.

Anderson continued to pursue his quest for recognition of indigenous sovereignty, even addressing the United Nations on the issue. He died in 1985 and was buried on the Tuscarora Indian reservation.

Troy R. Johnson

BIBLIOGRAPHY

Anderson, Wallace. "The Lost Brother: An Iroquois Prophecy of Serpents." In *The Way: An Anthology of American Indian Literature*, edited by Shirley Hill Witt and Stan Steiner, 243–247. New York: Vintage, 1972.

Annuities

Annuities were funds or goods paid by the United States to American Indian tribes for an agreed-upon period of time, usually in exchange for the cession of land. They were usually contracted through negotiated treaties, and in some cases the U.S. offered to make the payments in perpetuity. The federal government included annuities provisions in its earliest treaties, including the 1778 accord with the Delawares, and continued to make promised annuity payments long after it abandoned the practice of treaty making in 1871. While it is impossible to determine the total annuities paid out by the U.S. government over the years, in 1947 Felix S. Cohen, a student of American Indian law, estimated that the total figure paid out for Indian lands, including annuities and other payments, to be over \$800 million.

Exactly what form an annuity took depended largely on the circumstances of the agreement. Payments could be in the form of cash, or they might be paid in kind with such items as cloth, food staples, household tools, hunting weapons and accessories, or farm implements. Most annuity payments ranged from a few hundred dollars to several thousand per year. Indians generally traveled to the same location—usually an Indian office agency—once a year to receive their annuity payments from the superintendent or agent. In 1834 Congress passed another in a series of trade and intercourse acts; this one directed the Indian office to tender payments to the chief, or a person designated by the tribe, for redistribution to the tribal members. In 1847 Congress, hoping to eliminate the influence of tribal chiefs, gave the president or the secretary of war the discretion to pay annuities directly to the heads of Native families, to other individuals entitled to receive them, or to other recipients acceptable to a tribe. In

one of its many efforts to control Natives, the government often threatened to cut off the supply of annuity payments to get a tribe to conform to its demands.

The annuity system was beset with problems for almost the entire period of its use. For example, as the Office of Indian Affairs allowed Indians to settle their accounts with traders at the site where the annuities were paid, the cash often ended up in the traders' pockets. A more common and intractable problem was the fact that dishonest agents often skimmed the best annuity items for themselves or cheated their customers in other ways. The presence of whiskey peddlers at annuity payment locations posed another major complication. They were attracted by the large amounts of government goods and cash, and they tried to take advantage of the Indians if they could get them to drink. These dealings often provoked ill-feelings and occasionally violence between the Native customers and their suppliers. Due to these issues, advocates for reform of the Indian Office occasionally called on the government to abandon the use of annuities.

One significant consequence of the annuity system was that some Native communities became dependent on the payments, particularly if they had been removed to reservations and had no means to continue their traditional practice of hunting. Many of the land cession treaties contained provisions in which the government promised to provide goods in kind to assist the tribe in a transition to a farming lifestyle. The government hoped that adopting this facet of "civilization" would prepare the Indians for assimilation at some point in the future, thereby ending the existence of tribal identities. In several cases, the government negotiated an end to annuity payments with the allotment of tribal lands in the late eighteenth and early nineteenth centuries.

See also *Allotment in Severalty; Removal; Trade and Intercourse Acts; Treaties: Historical Overview.*

James E. Seelye Jr.

BIBLIOGRAPHY

Prucha, Francis Paul. *American Indian Treaties: The History of a Political Anomaly*. Berkeley: University of California Press, 1994.
———. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.

Anthropology and Ethnology

Since the birth of American anthropology (the study of human beings) and ethnology (the branch of anthropology that studies the races, origins, distribution, and characteristics

of different human cultures), practitioners have helped to formulate or influence federal Indian policy and law. Following the example of noted ethnologist, philosopher, and president Thomas Jefferson, the majority of ethnologists and anthropologists in the United States were self-taught amateurs until the twentieth century when anthropology became an accepted academic field of study.

Lewis Henry Morgan and Indian Removal

The government policy of removing Native Americans from their traditional lands and sending them to inhabit more distant territories originated in the early nineteenth century. The concept was first formed by Thomas Jefferson during his tenure as president from 1801–1809, but was forcefully implemented by President Andrew Jackson, who served from 1829–1837. Proponents of Indian removal advocated the “civilization” of Native people. This could only be done, they believed, by distancing indigenous populations from corrupt white society. Yet many proponents of Indian removal only wanted Native land and gave little thought to the needs of the Native people. With the passage of the Indian Removal Act of 1830, the president acquired the power to remove Indians from their traditional lands. Natives from both the northern and southern United States were sent west across the Mississippi River.

Lewis Henry Morgan, the famed and controversial father of American anthropology, encountered the politics of Indian removal in 1846. Morgan had been interested in Native people since his days at Union College in Auburn, New York, but even though he was “Chief Sachem” in the Grand Order of the Iroquois, a fraternal society he organized, he had never before met an indigenous person. He soon found that his romanticized ideas and meeting and interviewing real Native people were not the same.

Morgan met his first Indian in a bookstore in Albany, New York. Ely S. Parker, later a brigadier general in the United States Army and, after that, the commissioner of Indian affairs, was the sixteen-year-old Seneca interpreter for a delegation of elder Seneca chiefs in Albany meeting with the governor. Morgan interviewed Parker, and Parker invited Morgan to visit his reservation, Tonawanda, near Buffalo. In 1845 Morgan traveled to Tonawanda to collect information on the political organization of the Iroquois. He left several days later resolved to save the Seneca on the Tonawanda reservation, a community that had been in existence since the eighteenth century, from being removed from their traditional territory to new lands in Kansas.

The Ogden Land Company purchased the Tonawanda reservation through a fraudulent treaty in an attempt to remove the Seneca from their ancestral land and resettle them out west. Morgan, along with other members of the Grand Order of the Iroquois, became personally involved in a campaign to save the reservation. The Seneca petitioned President James K. Polk (1845–1849), who decided to suspend the execution of the treaties pending further examination by the Senate.

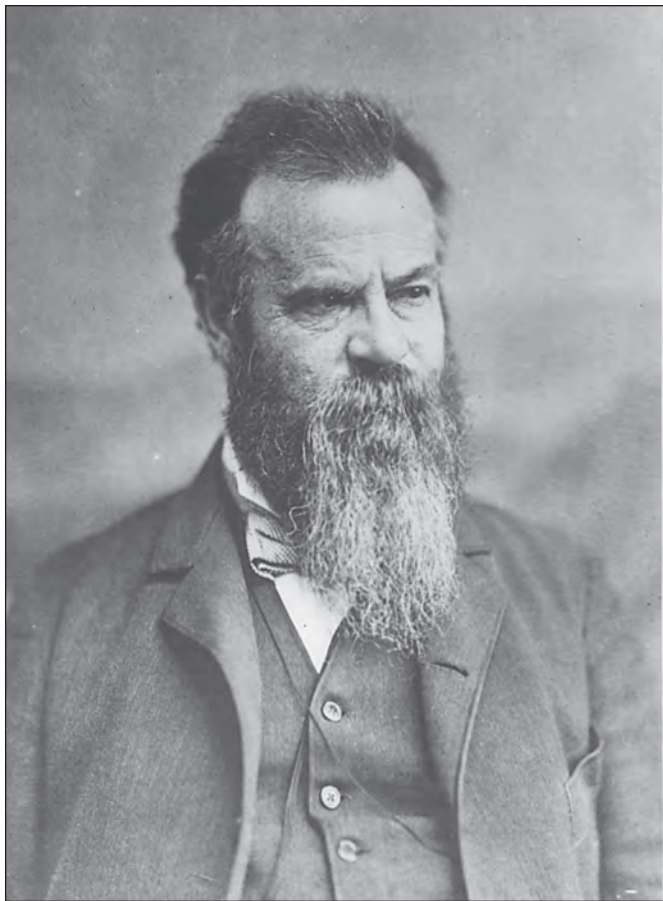
News of the intended forced removal of the Seneca circulated throughout New York, mostly through the efforts of the Grand Order of the Iroquois. In 1846 hundreds of people met in the courthouse at Batavia. A memorial on behalf of the Senecas was brought to the floor. Morgan distinguished himself at the gathering by the enthusiasm he displayed for the cause. Delegates to the meeting appointed him to travel to Washington, D.C., to deliver a memorial to the president and the Senate. Upon Morgan’s return to New York, however, his involvement in the Tonawanda case faded. In 1857, ten years after Morgan visited the Senate, Ely S. Parker negotiated a settlement with Congress that allowed the Seneca to repurchase acreage sold to the Ogden Land Company.

While no longer active in the Tonawanda case, Lewis H. Morgan’s interest in the Iroquois remained. In 1851 he published his first work, *League of the Ho-de-ne-sau-nee or Iroquois*, the first ethnography written in the United States. In 1861 Morgan vigorously lobbied to be appointed commissioner of Indian affairs, but did not receive the post. Despite this defeat, Morgan served in the New York State Assembly from 1861–1867 and in the state Senate from 1868–1869. As chair of the Senate Committee on Indian Affairs, Morgan used his position to introduce legislation to conserve timber on reservations, to increase benefits for Indian education, and to air the grievances of many of the tribes remaining in New York.

John Wesley Powell and Indian Assimilation

By the late 1840s, public support of removal began to lessen as more Americans, infused with the spirit of abolitionism, began to rethink the rights of minorities. This compelled the U.S. government to adopt a new solution to solve the “Indian problem.” Relocation was replaced by a policy of isolating Indians on reservations in order to prepare them for assimilation into the majority society.

President Grover Cleveland (1885–1889) signed the Dawes General Allotment Act into law on February 8, 1887. The act, a key tool in the policy of assimilation, reflected a



Major John Wesley Powell founded the Bureau of Ethnology, which sponsored field work and research on Indian culture and how it fit into the evolution of human society.

decade of campaigning by Christian reform groups who believed that communal land holding stood in the way of civilization. Reformers hoped that the responsibilities of citizenship and of land ownership would induce Natives to assimilate into white society. The act required reservations to be surveyed and dissolved, and then the land re-allotted to individual Indians. The government held the allotted lands in trust for twenty-five years, after which sole ownership and U.S. citizenship fell to the Indians. The commissioner of Indian affairs, Thomas J. Morgan, also suggested renaming Indians with suitable Anglicized names and sending Native youths to boarding schools.

John Wesley Powell, a self-trained geologist and anthropologist, agreed with the policy of assimilation. Powell, a cultural evolutionist, believed that every human society progressed through three distinct stages of development: savagery, barbarism, and civilization. Powell's views were possibly influenced by British anthropologist Edward B. Tylor,

who believed that humanity passed through a staged evolution, in which education led to the advancement of these "primitive children." In Powell's opinion, despite centuries of contact, Indians remained savages. Their assimilation into American society would, however, further advance them to a civilized end. He believed that the road to assimilation was threefold: removal of the Indians from their traditional lands, allotting Indians property as individuals, and educating Native youths in boarding schools.

In 1879 Powell was named the first director of the Bureau of Ethnology, giving him the power he needed to advance his views. Under his direction, the bureau (later renamed the Bureau of American Ethnology) became the primary sponsor of anthropological research in the United States. Powell allotted the bureau's resources to fund many aspiring anthropologists, including James Mooney, who wrote influential ethnographies on the Ghost Dance and the Eastern Band of Cherokees; Albert Gatschet, a linguist who studied the language and culture of the Klamath people of southern Oregon; Mathilda Stevenson, the first woman anthropologist hired by the bureau, who researched the tribal relations of the Zunis to other tribes in the American Southwest; Frank Cushing, who lived with and became the first participant observer of the Zunis; and Francis La Flesche, the first Native man to become an anthropologist and to study the music and ritual of his own people, the Omahas. The anthropologists employed at the bureau published the findings of their numerous studies in the Bureau of Ethnology's Annual Reports, Bulletins, Contributions to North American Ethnology, and Miscellaneous Publications. The content of these publications reflected the contemporary interests in the field of anthropology, although they were mainly restricted in scope to the Americas. More established scholars, like Lewis Henry Morgan, also published their research findings in bureau publications.

Conceiving the mission of the bureau to be political in nature, Powell proposed that his staff would first untangle and classify the mess of treaties and land cessions that the Indians had signed with the government; later they would travel to Indian reservations to learn Native languages and customs in order to make assimilation easier. His influence over the direction of anthropology expanded when he and his staff founded the Anthropological Society of Washington and later helped to organize the American Anthropological Association in 1902. For much of the 1880s, Powell set the parameters within which intellectual discussions of Native people were held.

While Powell held considerable influence over the anthropological community, he continued to exercise caution when dealing with politicians. He never exposed the bureau to public scrutiny, choosing instead to lobby lawmakers privately. He often inserted his own political views about Native assimilation in bureau reports presented to Congress and responded to requests from individuals.

In 1893 nearing the end of both his career and his life, Powell published a reflective essay entitled "Are Our Indians Becoming Extinct?" Powell was convinced that despite their declining population, Indians were on the verge of progress through the process of being absorbed into non-Native society. By the time of Powell's essay, Native people across the nation farmed their own land, spoke English, and attended church regularly. Assimilation was working and soon, according to Powell, the condition of savagery would be eradicated from the United States forever.

John Wesley Powell died on May 28, 1903. His tenure as the director of the Bureau of American Ethnology saw the organization become the premier institution of anthropological research in the country. He also helped to shape the organization's mission of gathering information to aid in the federal policy of Indian assimilation. Following his death, however, anthropologists began to rethink assimilation policies and federal policy changed yet again.

Edward Sapir and the Indian New Deal

In 1928 Lewis Meriam, a member of the Brookings Institute, and a team of nine specialists published *The Problem of Indian Administration*, a report that examined the efficiency of federal programs for Native Americans and the living conditions of Native peoples on government reservations. Meriam's report emphasized the need for a reorganization of the Indian service and highlighted the Office of Indian Affairs' (OIA) need for more money and a better-trained staff. Although a seemingly moderate report, the findings led to a shake-up at the OIA, later renamed the Bureau of Indian Affairs (BIA).

In 1933 John Collier, a progressive and pro-Native activist, received the appointment of commissioner of Indian affairs. Collier made great changes to federal Indian policy. He left behind the policies of allotment and assimilation in favor of what he referred to as "an Indian New Deal," and used the talents of the anthropological community in the formulation of this new deal.

Along with two important pieces of legislation, the Wheeler-Howard Act and the Johnson-O'Malley Bill, Collier's new deal provided Native people with a number of

very significant changes. The new commissioner closed boarding schools and replaced them with day schools that emphasized training in Indian languages. He then prohibited the sale of Indian lands and instituted a number of make-work conservation projects to help the desperate economic situation that many Native people found themselves in during the Great Depression. Next, he ordered reservation and agency superintendents to respect tribal customs, dismissed corrupt and incompetent officeholders in the OIA, and changed the nature of government on the reservations, replacing federal interference with greater autonomy for the tribes. The Wheeler-Howard Act repealed allotment and authorized land settlement talks with the Native tribes, while the Johnson-O'Malley Bill allowed the secretary of the interior to negotiate agreements with the states for health care and education services for the tribes.

Collier relied upon the expertise of the anthropological community to formulate his wide-reaching reforms. Arguing that the specialized skills of anthropologists should be utilized in public sector programs, Collier organized an Applied Anthropology Unit within the OIA. Anthropologists, acting as liaisons between Native American groups and the OIA, observed the leadership and patterns of government on reservations and made recommendations on the establishment of tribal charters and constitutions. Collier's applied anthropologists did not always agree with his views, however, and many left the projects they had been hired to complete. Collier had better luck in future attempts at including the anthropological community in his work, primarily because he allowed them to study Native people without the burden of producing policy. In 1934 the Office of Indian Affairs decided that a written and printed form of the Navajo language needed to be devised and taught to OIA officials and Navajo students. To complete this work, Collier needed a strong linguist, as the Navajo language was reputed to be one of the hardest to learn.

Collier commissioned Edward Sapir, a linguist and student of Franz Boas, the father of academic anthropology in the United States, to write a Navajo worker's handbook to introduce the Navajo language to OIA employees. Two fieldworkers, Berard Haile, a specialist on Navajo education, and Gladys Reichard, a linguist, joined the project. The work began promisingly. Reichard conducted a summer school with Navajo students to test how difficult it would be to teach them to read and write their language, while Haile and Sapir simplified an existing Navajo orthography (writing system). In 1938 a heart condition compelled Sapir to with-

draw from his official association with the project, although he continued to send Haile Navajo verbal conjugations and parts of a book they had planned to write together. Sapir died in 1939.

The following year, the first Navajo reader appeared. World War II (1939–1945), however, ended Collier's expensive New Deal initiatives and his career. His resignation from office in 1945 ushered in the beginning of another era in federal Indian policy, one in which anthropologists continued to play a major role.

Erminie Wheeler-Voegelin and Indian Termination

John Collier's policy of expanded Native self-determination had many powerful critics. Following his resignation, these detractors reversed Collier's progressive policy, replacing it with the federal policy of Indian termination. Proponents of termination desired to "free" Native people from their "Indian" status, assimilating them once and for all into white society. To do this, the BIA, under the influence of Dillon S. Myer, the commissioner of Indian affairs from 1950–1953, attempted to repeal laws that set Natives apart from other citizens, end BIA services for Indians, "free" Native groups from federal supervision and guardianship, and terminate federal responsibility for specific tribes. Anthropologists protested against these changes. Many began working against the BIA and termination by becoming expert defense witnesses for the Indian Claims Commission (ICC), established in August 1946. Other anthropologists began working for the government to determine whether specific tribes had a historical basis to their claims against the United States.

Collier had proposed the ICC during his tenure, but it had little support. The ICC was a special congressionally-created tribunal of three people with judicial authority. It was appointed to redress Native grievances and to provide compensation for broken land treaties. Terminationists supported the ICC because they felt that ending Native peoples' lawsuits against the U.S. government would allow federally recognized tribes to end their unfinished federal business before the BIA disbanded them. Native advocates supported the ICC because they believed it would bring the plight of Native people to a national stage.

Carl Voegelin and Erminie Wheeler-Voegelin were both involved with the ICC. This husband and wife duo, anthropologists at Indiana University, began working for the government in 1953. In that same year, Indiana University received a grant from the Justice Department to examine the historical documents in the Great Lakes region and deter-

mine the validity of the land claims made by Native groups against the government. Voegelin served as the director of the project and Wheeler-Voegelin as associate director. The Voegelins worked diligently on the project, eventually forming a conference group. Forty-eight specialists attended the first Ohio Valley Historic Indian conference in 1954. This group of anthropologists and historians continued to meet annually and, at Wheeler-Voegelin's insistence, the small student publication of the Ohio Valley Historic Indian conference became the journal *Ethnohistory*. The conference group itself later became the American Society for Ethnohistory.

Wheeler-Voegelin encouraged interdisciplinary learning through the new ethnohistorical methodology. The Justice Department, pleased with the results that her team produced, awarded her another grant to continue the project's work. She repeatedly traveled to Washington, D.C., to testify as an expert witness in front of the ICC. Wheeler-Voegelin and her team attempted to uncover and to present the "truth" to the commission, free of political angles. She testified before the committee for the last time in 1969. The work she had undertaken on behalf of the government led to the emergence of ethnohistory, a discipline that combined the research and narrative techniques of historians with the theoretical contributions of anthropologists. This new research method treated Native cultures with dignity and respect and allotted to them the historical significance they deserved. In less capable hands, the formidable position of government researcher and expert prosecution witness could have been disastrous for Native people. Thanks to Wheeler-Voegelin, however, many tribes received settlements to their claims.

The ICC helped Native Americans receive the land settlements they deserved and focused attention on the history of Native people in the United States. During its existence, the ICC heard 617 claims. In 1978, when the legislation that created the commission came up for renewal, Congress allowed it to lapse. Although the disastrous policy of termination ended in 1970, the continued fear of termination rallied Native people and supporters alike to call for increased government accountability.

Conclusion

Throughout the late nineteenth and into the mid-twentieth centuries, anthropologists and ethnologists formulated and influenced federal Indian policy and law. Some, such as Lewis Henry Morgan, entered politics themselves, while others, such as John Wesley Powell, influenced policy discreetly without appearing in the public eye. With the dawn of the

twentieth century, the U.S. government began hiring anthropologists, firstly to help save tribal language and culture, and eventually to help terminate the federal relationship with, and responsibility for, Native people. Although the role of anthropologists was called into question by members of the Native community, namely by Vine Deloria Jr. and the American Indian Movement during the 1960s, anthropology's influence over policy did not end. The end of the twentieth century witnessed anthropologists becoming tribal activists and helping Native people in court cases and in the community.

See also *Assimilation and Acculturation*; Collier, John; *General Allotment Act (Dawes Act) of 1887*; *Indian Claims Commission Act*; *Indian New Deal*; *Indian Removal Act (1830)*; Powell, John Wesley.

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BIBLIOGRAPHY

- Collier, John. *From Every Zenith: A Memoir and Some Essays on Life and Thought*. Denver, Colo.: Sage Books, 1963.
- Darnell, Regna. *Edward Sapir: Linguist, Anthropologist, Humanist*. Berkeley: University of California Press, 1990.
- Dippie, Brian W. *The Vanishing American: White Attitudes and U.S. Indian Policy*. Middletown, Conn.: Wesleyan University Press, 1982.
- Hoxie, Frederick E. *A Final Promise: The Campaign to Assimilate the Indians, 1880–1920*. Lincoln: University of Nebraska Press, 1984.
- Judd, Neil M. *The Bureau of American Ethnology: A Partial History*. Norman: University of Oklahoma Press, 1966.
- Lockard, Louise. "New Words: Historical Images of Navajo Language Literacy." *American Indian Quarterly*, vol. 19, no. 1 (1995): 17–29.
- Lurie, Nancy Oestreich. "The Indian Claims Commission Act," *Annals of the American Academy of Political and Social Science*, vol. 311 (1957): 56–70.
- Meriam, Lewis. *The Problem of Indian Administration*. Washington, D.C.: Institute for Government Research, 1928.
- Nadar, Laura. "Sleepwalking through the History of Anthropology: Anthropologists on Home Ground." In *Anthropology, History, and American Indians: Essays in Honor of William Curtis Sturtevant*, edited by William L. Merrill and Ives Goddard, 47–54. Washington, D.C.: Smithsonian Institution Press, 2002.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska, 1984.
- Resek, Carl. *Lewis Henry Morgan: American Scholar*. Chicago: University of Chicago Press, 1960.
- Tanner, Helen Hornbeck. "Erminie Wheeler-Voegelin (1903–1988), Founder of the American Society for Ethnohistory." *Ethnohistory*, vol. 38, no. 1 (1991): 107–118.
- Tooker, Elisabeth. "Lewis Henry Morgan: The Myth and the Man." *University of Rochester Library Bulletin*, vol. 37 (1984): 23–47.
- Worster, Donald. *A River Running West: The Life of John Wesley Powell*. Oxford: Oxford University Press, 2001.

Apache Wars (1860–1886)

The United States annexed most of northern Mexico during the U.S.–Mexican War of 1846–1848 and the Gadsden

Purchase that followed in 1853. The newly seized areas contained the heartland of Apacheria, the region that would later become southern Arizona and New Mexico, and the Apaches then faced both the United States and Mexico in the contest for the control of the borderlands.

The fragmented Apache society consisted of a congregation of extended families, bands, clans, and tribes. In the mid-1800s the main divisions included the Jicarillas, Mescaleros, Chiricahuas, and the Western Apaches. Apache groups did not share united political authority or social frameworks, but they did recognize a certain shared identity built on similar languages, a common culture, and an interconnected living space. They controlled and exploited their neighbors through a mixture of trading and raiding.

At first, the few Anglos in the region offered the Apaches an opportunity for lucrative trade. However, as more Americans arrived and established permanent bases, the Apaches realized that the Americans intended to occupy their homelands. It was this U.S. intrusion and the threat of settler colonialism that brought on the United States–Apache wars. In 1860, miners assaulted the band of perhaps the most influential Chiricahua Apache leader, Mangas Coloradas. Three years later Mangas was taken prisoner during negotiations. Soldiers taunted him and burned his feet, and when Mangas responded he was shot and killed. In 1861 another important Chiricahua Apache leader, Cochise, made a narrow escape. Lieutenant George Bascom of the U.S. Army invited him and several of his relatives for a parley and then arrested them, thinking, wrongly, that the Apaches had stolen some cattle and kidnapped a young boy. Cochise claimed innocence, but while he managed to get away, his relatives were not so lucky. The army executed them after negotiations with Cochise, who had captured some Anglos after escaping, did not materialize. In New Mexico the U.S. government interned Mescaleros and Navajos for years in concentration camp-like conditions at Bosque Redondo.

Through the late 1860s the army tried to contain what it saw as a general Apache menace in southern Arizona and New Mexico. Projecting military power into a region lacking manufacturing bases and efficient transportation linkages was difficult, however. Soldiers were poorly prepared for warfare in the Southwest. They were outsiders, originally from Europe or the eastern United States, who often had little military experience or training. Furthermore, they were scattered amongst small posts, unfamiliar with the terrain, dependant on outside supplies, and unaccustomed to the

Geronimo and many of his followers fled a peace conference in March 1886 rather than return to a reservation. Five thousand U.S. soldiers followed after them until Geronimo's final surrender later that year.



highly mobile and skillful Apache way of guerrilla war. For some officers the solution was the enlistment of Apache soldiers to handle offensive operations against other Apaches. The army's strategy of targeting enemy villages and supplies and the Apaches' hit-and-run tactics made the wars a cruel and vicious affair. The government and white civilians labeled all free Apaches as outlaws, or "hostiles," and any group thought to be Apaches became a target for Anglo aggression.

In 1871 a joint force of Hispanics, whites, and Tohono O'odham Indians from Tucson ambushed and slaughtered Apaches at an encampment near Camp Grant in Arizona. The survivors protested, in part because they had camped near Grant under the promise of military protection. Frustrated that the Apaches had not submitted to U.S. control and appalled by outrages like the massacre at Camp Grant, the federal government planned new initiatives. First, in 1871 and 1872 peace emissaries Vincent Colyer and General Oliver O. Howard toured the region and made reservation pacts with several Apache tribes. Second, the army launched the Tonto Basin offensive to target those Western Apaches who did not want to cooperate with the government. The offensive totally exterminated some Apache groups and drove others into reservation confinement. By 1874 there were few if any free Apaches on American soil.

Having seemingly won the war, the federal government drove the Western Apaches, Chiricahuas, and other Indians

in the area to the vicinity of San Carlos, Arizona. This proved disastrous. Not only did bands who detested each other have to live in close proximity, but the government wanted to make the Apaches sedentary farmers and thus sought to terminate most hunting and all raiding and warfare, the primary avenues for Apache men to gain status and wealth. Farming was also often hampered by inferior land; inadequate knowledge, seeds, tools, and supplies; and Apache reluctance to see farming as a man's vocation. Living in captivity, the Apaches faced the embezzlement of their rations and funds, disease, poverty, hunger, and unrest.

One disillusioned man was the Chiricahua Victorio. When the government refused to let him relocate from San Carlos, Victorio began a guerrilla campaign that shocked the borderlands. The Mexicans finally defeated Victorio's group in the Battle of Tres Castillos on October 1880.

In San Carlos, the government worried that a popular Ghost Dance movement led by a Western Apache shaman named Noch-ay-del-klinne amounted to a call to arms against all whites. After the army tried to arrest the shaman, a fight erupted between the troops and the shaman's Apache followers. Soon, fear of a general uprising swept across the region and the army overreacted with a show of force as troops from all directions poured into the Southwest. Many terrified and suspicious Chiricahuas and Western Apaches fled into the Sierra Madre mountain range. In 1882, around sixty renegade Indians came out of hiding and were defeated by the U.S. cavalry in the Battle of Big Dry Wash.

In the 1880s, the military's aggressive hunts became increasingly ineffective against small Apache bands that often made rapid raids onto U.S. soil to obtain women, guns, ammunition, supplies, and horses, and then hid in the Sierra Madre in Mexico. For instance, during the summer of 1881 the remnants of Victorio's group led by aged warrior Nana rode a thousand miles in southern New Mexico and Arizona, killed many Americans, captured hundreds of horses and mules, fought several skirmishes with the soldiers—winning most of them—and eluded over one thousand soldiers and civilians chasing them before returning to the Sierra Madre. The army invaded the Sierra Madre in 1883 and convinced the Chiricahuas to return to the San Carlos reservation. By 1885, however, the uneasy cooperation between civilian and military management had turned San Carlos into a hotbed of rumors, accusations, and cliques. Dissatisfied and distrustful, Chiricahua war leader and shaman Geronimo and his followers left the reservation. Most surrendered in the March 1886 peace conference, but Geronimo had second thoughts and fled. Following a fruitless campaign, in which five thousand soldiers chased approximately forty Apaches, the army resorted to negotiating with Geronimo in Mexico. Their efforts proved successful and Geronimo surrendered on September 1886 and was imprisoned in Florida. Seen as a military threat, all reservation Chiricahuas were also exiled to Florida as prisoners of war for twenty-seven years. The Chiricahuas were the last group of “free” Indians to offer systematic armed resistance to U.S. rule. With their surrender, the U.S.–indigeno wars ended and the United States had a secure grip of the continent.

See also *Cochise*; *Colyer*, Vincent; *Geronimo*; *Howard*, O. O.; *Mangas Coloradas*; *Victorio*.

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BIBLIOGRAPHY

- Cozzens, Peter, ed. *Eyewitnesses to the Indian Wars, 1865–1890: The Struggle for Apacheria*. Mechanicsburg, Penn.: Stackpole Books, 2001.
- McChristian, Douglas C. *Fort Bowie, Arizona: Combat Post of the Southwest, 1858–1894*. Norman: University of Oklahoma Press, 2005.
- Roberts, David. *Once They Moved like the Wind: Cochise, Geronimo, and the Apache Wars*. New York: Simon and Schuster, 1993.
- Robinson, Sherry. *Apache Voices: Their Stories of Survival as Told to Eve Ball*. Albuquerque: University of New Mexico Press, 2000.
- Sweeney, Edwin R. *Chiricahua Apache Chief*. Norman: University of Oklahoma Press, 1991.
- Thripp, Dan L. *Conquest of Apacheria*. Norman: University of Oklahoma Press, 1967.

Vandervort, Bruce. *Indian Wars of Mexico, Canada, and the United States, 1812–1900*. New York: Routledge, 2006.

Apess, William

William Apess (1798–c. 1839), a Christian convert of Pequot ancestry, became a leader of the Massachusetts Mashpee tribe as a minister, writer, and political activist. Between 1829 and 1836, he published five books, with the last advocating for the rights of the Mashpee Indians. His *Indian Nullification of the Unconstitutional Laws of Massachusetts Relative to the Mashpee Tribe* (1835) addressed the Mashpees' grievances against Massachusetts.

In 1789 the Mashpees lost their right to self-government and self-determination after Gideon Hawley, a Congregationalist missionary, argued for his appointment as the Mashpees' guardian in order to prevent further racial intermixing between the Pequots, African Americans, and Hessians. When Apess arrived at Mashpee—the only surviving Indian town in Massachusetts—four decades later, the state had imposed three white overseers and Reverend Phineas Fish as guardians for the tribe. These men exercised power and control over the Mashpees' land and lives.

Apess helped the Mashpees fight against the state's appointment of the overseers and helped the tribe regain its civil and political rights. He achieved this by drawing up a list of their grievances, publicizing them in the press, and winning public support for their cause. Apess and the Mashpees also fought to protect the natural resources on their land from being confiscated by locals and to prevent overseers from binding them out in employment to non-Indians. By March 1834 the state abolished the overseer position and granted Mashpee citizens self-governance. Nothing is known of Apess's later life, but he is remembered as a powerful and articulate critic of the American mistreatment of Native peoples.

See also *Self-Determination*.

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BIBLIOGRAPHY

- McQuaid, Kim. “William Apess, Pequot, an Indian Reformer in the Jackson Era.” *New England Quarterly*, vol. 50 (1977): 605–625.
- O'Connell, Barry. *On Our Own Ground: The Complete Writings of William Apess, a Pequot*. Amherst: University of Massachusetts Press, 1992.

Archaeological Resources Protection Act (ARPA; 1979)

Congress enacted the Archaeological Resources Protection Act (ARPA) in 1979 to end the problems of illegal excavation of archaeological sites and the subsequent black market sales of artifacts and human remains looted from those sites. The earlier Antiquities Act of 1906 was unsuccessful in these goals, primarily because of unclear provisions. ARPA addresses the problem of illegal excavation by requiring that a permit be obtained and relevant tribal authorities be notified and consulted before any excavation begins on federal or tribal lands. The details of the permit procedures vary depending on the circumstances and are governed by a set of uniform regulations jointly issued by the departments of agriculture, defense, and the interior, as well as the chair of the Tennessee Valley Authority. ARPA also prohibits archaeological resources from being excavated, transported, purchased, or sold without the proper permissions.

Violations of ARPA can result in criminal and civil penalties, which are decided upon according to the value of the archaeological resource involved and the cost of restoring and repairing both the resource and the site from which it was taken. ARPA also provides that any goods or fees collected as a result of illegal excavation on tribal lands must be given to the tribe. A number of people have been criminally prosecuted for violating ARPA.

Many Indians are offended by the statute, particularly because it defines an "archaeological resource" to include human remains that are at least one hundred years old. The statute also provides that archaeological resources are the property of the United States. Many Indians protest the concept that human remains can ever be defined as someone's property. The Native American Graves Protection and Repatriation Act (NAGPRA), passed in 1990, addressed this aspect of ARPA by establishing procedures for returning human remains to the appropriate tribe.

See also *Native American Graves Protection and Repatriation Act.*

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BIBLIOGRAPHY

- Antiquities Act of 1906*, Public Law 59-209, 59th Cong., 1st sess. (June 8, 1906).
Archaeological Resources Protection Act, Public Law 96-95, 96th Cong., 1st sess. (October 31, 1979).
 Tsosie, Rebecca. "Indigenous Rights and Archaeology." In *Native Americans and Archaeologists: Stepping Stones to Common Ground*,

edited by Nina Swidler, Kurt Dongoske, Roger Anyon, and Alan Downer, 64-76. Walnut Creek, Calif.: AltaMira Press, 1997.

Army, United States (1784-1890)

During the United States's expansion over the North American continent, the nation's army represented the power of the federal government and executed multifaceted tasks. Soldiers explored unsettled areas, enforced laws on behalf of civilian authorities, provided relief for migrants and security for railroad construction crews, and helped build roads and telegraph lines. The military presence was a magnet for new settlers who saw profitable business possibilities in the many military posts and villages. Most importantly, however, the regular army engaged in more numerous and diverse interaction with the indigenous peoples than any other group of whites. The War Department was solely responsible for Indian affairs until 1849, after which authority transferred to the Department of the Interior. Although it was poorly funded, hugely unpopular, and relatively small, the army was expected to defeat and control indigenous tribes from Florida to Arizona and from the Pacific Northwest to the eastern shores of the Great Lakes, thus ensuring that U.S. dominion over the continent would become a reality.

The Army and the Republic

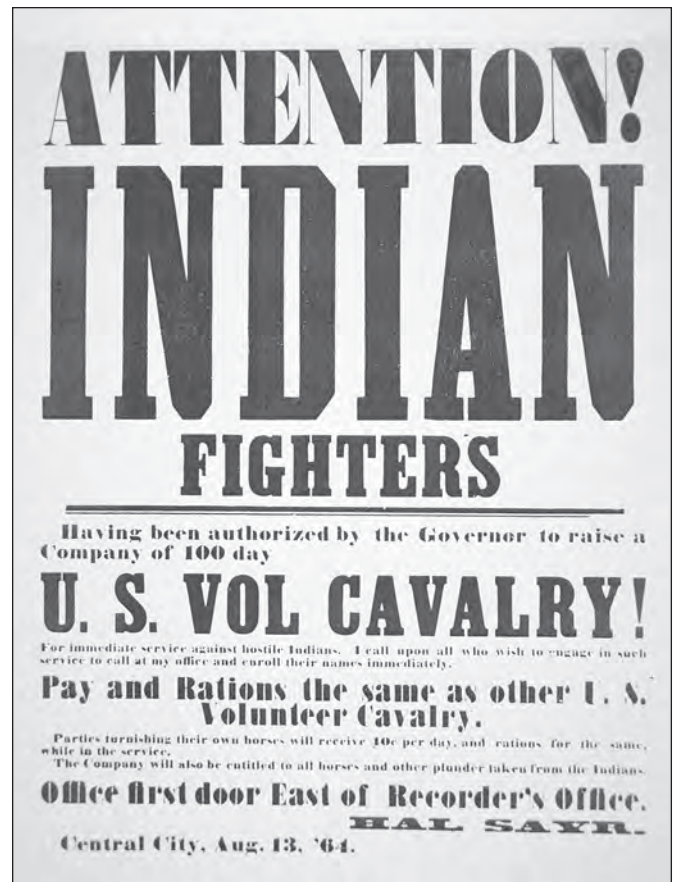
Throughout its history the United States has had two armies: the volunteer citizen army, variably called militia, National Guard, or Organized Reserves, and the regular U.S. Army. Although the former institution can trace its roots to the Continental Army formed in 1775 to fight in the American Revolutionary War (1775-1783), Congress created the regular army in June 1784. During the decades following independence, the army's status remained uncertain and contested by many influential parties who believed the United States should be at heart a country that avoided foreign conflicts. Men like President Thomas Jefferson were openly hostile or indifferent to the army and considered the military profession altogether unnecessary, preferring instead to rely on the citizen militia. A regular army could become politicized and represent a threat to democracy, they claimed. Also, the deep class divide between the officers and enlisted men seemed inappropriate and contrary to the principles of the republic. Furthermore, the army rarely enjoyed any support or attention from the general populace outside

the zones of Indian conflict. Soldiers were often ridiculed as too lazy to work, while officers were accused of representing an incompetent and arrogant aristocracy. Ignoring popular sentiment, however, the federal government wanted its own troops to handle Indian affairs, providing reason enough for the army's continued existence.

Before the Civil War (1861–1865), regular army strength during peace time varied from a few thousand men to a little over ten thousand. When the army was reorganized in 1866, Congress fixed its size at 54,000 men. To many the cost of such a large institution appeared to outweigh its usefulness. Southern representatives, for example, bitter over army participation in Reconstruction, argued for a smaller force. By 1874 army size was cut to twenty-five thousand enlisted men and two thousand officers. The army's reorganization created regiments, companies, and troops, and geographic divisions, districts, and subdistricts. Army command remained less clear cut and subject to rivalry. The ultimate head of the army hierarchy was the president of the United States, who held overall authority as commander in chief under the Constitution. The power of Congress was also considerable because it directed army spending through annual allotments.

Army Personnel

The army was divided by a strict class division between officers and enlisted men. Enlisted soldiers were all volunteers, generally from the poorer classes of society. White soldiers were typically either industrial laborers or recent immigrants from Europe, chiefly Irish and German, although men from almost every European nation served. For the laborer, the army offered a means to survive during economically uncertain times, while for the immigrant it functioned as a way to adjust to American society, earn pay, and learn the culture and language. Desertion, however, remained high. Some men had no intention of serving in the first place and merely wanted a free ride to the West, and many others quickly grew tired of daily living in military villages. The constant manual labor required by the poor condition of the villages and the need to improve the infrastructure in the colonized regions hurt the professional pride of some soldiers, who felt reduced in status to common laborers. The monotony of post life, lack of comforts and adequate nutrition, exhausting and unpredictable military campaigns, poor pay when compared to civilian life, and harsh discipline and oppressive justice administered by the officers also did not increase the attraction of military life. Many soldiers sought pleasure in



A nineteenth-century U.S. Cavalry recruitment poster calls for Indian fighters, who were often recruited directly from reservations.

gambling and drinking, while an estimated one-third of the men in the post–Civil War army deserted before their five-year enlistments expired.

Army officers were mostly native-born and middle-class men. When the army was first organized, most officers originated from New England, but by the early 1800s the middle states had the largest representation, followed by the South. After the Civil War, southern officers almost disappeared, whereas the Northeast dominated. Ohio, Pennsylvania, and New York became the most common birthplaces of officers.

The military academy at West Point, founded in 1802, gave the army a basic institution for the training and development of leadership skills. The number of West Point graduates in the officer corps rose from less than 15 percent in 1817 to more than 76 percent in 1860. Critics claimed the academy was un-American, training a military elite distanced from the values of the American society. Although highly competitive individuals, the officers formed a broth-

erhood, a refined and intellectual group bound together by a high sense of morale, manners, and honor that saw themselves representing the best elements of American civilization. In many families the military evolved into a lifelong career and way of life. It was not unusual that daughters of officers married into the army while sons sought an army career themselves.

During the Civil War, the army established regiments for black soldiers that continued to exist after the war. These “Buffalo” soldiers served under white officers and occupied military villages with white troops, as did locally hired indigenous soldiers, or Indian scouts. While both black and indigenous soldiers suffered from social prejudice and discrimination inside and outside army villages, black soldiers experienced greater equality with white troops. Native American soldiers were randomly hired, largely depending on the needs and desires of local commanders. Often enlisted from reservations, they worked for shorter periods than white or black soldiers, but received the same salaries. On the Plains the military employed hundreds of Pawnee, Cheyenne, and Crow men in offensives against the Lakota–Cheyenne–Arapaho alliance, while in the Southwest many Yavapais, Navajos, and Pimas at times found themselves on the military payroll. In terms of operational diversity, numbers of enlistees, and the army’s dependence on the soldiers’ performance, however, the Apaches served as the most comprehensive example of indigenous participation in the army.

The Army and Indian Policy

Throughout the Indian war period, the army struggled to construct a consistent policy for controlling conflict with indigenous tribes. That the government offered few concrete guidelines was partly because the nation believed that indigenous peoples were a vanishing race and continental expansion was the inevitable course of history. The next Indian war was always imagined to be the last, and these battles were considered insignificant even by many army officers, as the colonial/frontier mission never occupied center stage in the minds of most military planners. Instead their efforts were directed at studying European armies or how to deal with Reconstruction, labor disputes, or disasters such as the Chicago fire of 1871. In addition, the army fought more “traditional” wars from 1812 to 1814 against the British, from 1846 to 1847 against Mexico, and within its own borders during the Civil War. By the time of the last foreign conflict of the century—the Spanish–American War (1898), the age of military conflict with Indians had come to an end.

From the army perspective, indigenous peoples stood in the way of civilization and progress. Accordingly, their fate should be either removal to the West, or, when that became increasingly difficult after available land began to run out in the mid-1800s, accommodation, marginalization, or disappearance. If tribes tried to maintain their sovereignty and resist the expansion of white settlement, the army labeled them as enemies and deemed them subject to “military punishment.” The army believed that the Indians paid attention only to force and thus had to be defeated in battle. Only after their power was crushed could the Indians supposedly start adapting to American society under white supervision. When officers were appointed reservation agents, they exercised considerable power over the domestic lives of indigenous men and women. They often tried to alter the existing structures of work and family life to speed up indigenous assimilation into white culture.

Some officers respected their adversaries and tried to understand the Indians’ position. Often the army kept white settlers from harassing indigenous villages. Soldiers saw how settlers robbed the Indians of land, exploited their labor, and contributed to growing alcoholism and desperate poverty among Natives. They witnessed firsthand how the government failed to abide by treaties, neglected to provide necessary rations, or embezzled the Indians’ funds. Such corruption was most often attributed to civilian Indian agents who usually controlled the reservations. This divided system of management over Indian affairs, with civilians controlling the Indians inside the reservations and the army controlling them on the outside, proved a constant matter of debate. Often motions to remove the Office of Indian Affairs from the Interior Department and shift it back to the War Department were started in Congress, but no changes were made. This frustrated army officers, who liked to imagine they could handle the “Indian problem” better and more swiftly if only they had full control of the issue.

The Conquest

For more than a century, the army was kept busy by Indian campaigns. After 1784 it moved into the disputed territory between the Ohio River and the Great Lakes and made the U.S. presence known by constructing army posts and patrolling the area. Under the command of General Anthony Wayne, the army won an important victory over the Indians in the region in the Battle of Fallen Timbers in 1794. The War of 1812 (1812–1814) involved a conflict not only against the British but also a massive Indian war, the United

States defeating Indian resistance and killing famous Shawnee leader Tecumseh, after which American control of the Northwest Territory was secure.

During the next decades, the army engaged in executing the government's removal policy, officially authorized by the Indian Removal Act in 1830. This policy promised a permanent Indian Territory west of the Mississippi on the lands of the Louisiana Purchase, where eastern tribes could settle in exchange for giving up their homelands. It was the army's mission to organize the removal or, as in the case of the Creeks and the Cherokees, to compel submission. In 1832 a full-scale war, the Black Hawk War, broke out between U.S. troops and the Sac and Fox when the Indians objected to efforts to remove them from their lands in Illinois. In 1835 the United States became engaged in a bitter war with the Seminoles in Florida; only after seven years and hundreds of casualties was the army able to bring about the relocation of most of the tribe to the Indian Territory.

Frontier military posts represented conquest and an offensive move into Native lands to American Indians. Military villages were centers of American power, providing security to invading settlers, railroads, businessmen, and government officials, and offering troops supply bases from which to conduct their campaigns. After the Civil War, the army was scattered in more than two hundred such villages from the Mexican border to Canada. Usually these villages were small, one to three company posts, usually housing from 50 to 150 enlisted men and a handful of officers, as well as a congregation of civilian employees and army wives. Before the early 1900s, military villages differed widely in their design and use of building materials. What they had in common was that most were built by enlisted labor and from local materials. The village center was a large parade ground usually with the officers' housing on one side and the enlisted men's barracks on the other. Officers, who frequently had the means to furnish and beautify their homes to more closely replicate eastern middle-class standards, lived in one- or two-family houses assigned according to rank. While colonels got five rooms, second lieutenants had only one. Enlisted men lived in large barracks where there was no privacy and where two men oftentimes were forced to share a bunk. Some villages had no houses or barracks, only tents.

Ideally, the forts held enough men to provide troops for field operations, as well as to protect various strategic locations. In practice, however, the army's small size in comparison to the vastness of its areas of operation and its number of duties hampered the troops' efficiency. During the

post-Civil War era, the army engaged in major campaigns on the Plains against mounted combatants, most formidably the loose Lakota-Cheyenne-Arapaho alliance in the north and the Comanches, Kiowas, and Cheyennes in the south. Battles at Washita in 1868 and Summit Springs in 1869, and the Red River War (1874–1875) were among the major conflicts on the south-central Plains. The conflict over the Bozeman Trail in the late 1860s and the Great Sioux War of 1876–1877, during which Lieutenant Colonel George Armstrong Custer's Seventh Cavalry was annihilated in the Battle of the Little Bighorn, formed the key events in the northern Plains, along with the 1890 massacre at Wounded Knee where the army, frantic over a messianic Ghost Dance movement, slaughtered a group of Lakotas.

In the Southwest, Navajo military power was broken during their imprisonment at Bosque Redondo in the 1860s. The wars against the Apaches gradually intensified after the United States took the region from Mexico after the U.S.-Mexican War in 1846–1848. Led by such men as Cochise, Victorio, and Geronimo, the Apaches kept thousands of soldiers occupied until the mid-1880s. General Nelson Miles finally nullified the Apaches military power by shipping the Chiricahua Apaches to Florida as prisoners of war.

The army also took part in several individual confrontations outside of the Plains and Southwest with indigenous groups trying to hold on to their land bases and political sovereignty. Examples include the Modoc War (1872–1873) and the flight of the Nez Perce, during which General Oliver O. Howard chased the Indians all over the Pacific Northwest before finally catching them just south of the Canadian border.

Usually the army fought unconventional warfare with conventional methods. The campaigns were often cruel and indiscriminate, with both indigenous noncombatants and combatants becoming targets. The shortage of knowledge concerning the terrain, weather, and the enemy, in addition to lack of military experience and training and numerous desertions, plagued the troops. This was especially true when the army moved west of the Mississippi River. The terrain in the Plains and the Southwest and the guerilla tactics of the enemy confused white officers and soldiers. Additionally, the army often lacked mobility. Heavy columns of infantry and cavalry, locked to slow-moving supply trains, crawled about the vast western distances in search of Indians who could scatter and vanish almost instantly if they wished. Soon the army came to believe that the Indians would rather flee than confront heavy military concentrations. This presumption

proved costly on some occasions. For instance, in 1876 the army organized three massive columns that approached the heartlands of the Lakota-Cheyenne-Arapaho alliance. This time, however, the Indians chose to fight, which stunned the leading officers, General George Crook and Lieutenant Colonel George Armstrong Custer. While Crook was badly shaken at Rosebud, Custer led his troops into the army's single worst defeat in the history of U.S.-indigenous wars at Little Bighorn.

Adaptation to different fighting tactics depended a great deal on individual commanders at the local level. For example, after realizing that the enemy was more vulnerable and less mobile during the winter, many officers began to favor winter campaigns. Also, some officers came to believe that determined pursuit and converging columns could catch the enemy and force him to fight. This was tested in the Southwest in 1872-1873, when Crook employed small converging columns composed of white regulars and locally hired indigenous soldiers. The mobility of the columns was increased by the use of pack mule. These troops proved effective in targeting villages and caused considerable casualties for the Yavapais and Western Apaches before driving the survivors to reservations.

Although the army had always relied on indigenous allies to an extent, during the post-Civil War years the army's dependence on Native soldiers, most notably Apaches, Pawnees, and Cheyennes, increased. Indigenous men were used as an active fighting force at times, such as during the U.S.-Apache wars in 1885-1886. These Indians were given the sole responsibility for offensive operations, while white and black soldiers were relegated to defensive positions. In the 1890s the army organized a short-lived experimentation of indigenous companies.

As the United States rose as an international political force during the 1890s, the continental conquest came to an end and the sovereignty and military power of indigenous peoples was broken. Much of this defeat was due to new European diseases introduced to a Native population with no natural immunity to them and the sheer force and numbers of colonizers who took the Indian lands. The U.S. Army, however, was also a factor in the conquering of the indigenous tribes. Having no coherent Indian policy to follow or any overall strategy for fighting the Indian wars, the army had often chased Indians into reservation confinement, thus ending their freedom and altering their lifestyles and culture. On others occasions, however, the army offered indigenous people protection against settler greed and provided many

Natives their introduction to the American labor force by hiring them as soldiers.

See also *American Revolutionary War; Black Hawk War; Bosque Redondo; Bozeman Trail War; Buffalo Soldiers; Civil War; Cochise; Crook, George; Custer, George Armstrong; Fallen Timbers, Battle of; Geronimo; Indian Removal Act (1830); Jefferson, Thomas; Little Bighorn, Battle of; Miles, Nelson; Modoc War; Nez Perce War; Red River War; Removal; Second Seminole War; Sherman, William T.; Tecumseh; U.S.-Mexican War; Victorio; War, U.S. Department of; War of 1812; Wayne, Anthony; Wounded Knee Massacre (1890).*

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BIBLIOGRAPHY

- Ball, Durwood. *Army Regulars on the Western Frontier, 1848-1861*. Norman: University of Oklahoma Press, 2001.
- Coffman, Edward M. *The Old Army: A Portrait of the American Army in Peacetime, 1784-1898*. New York: Oxford University Press, 1986.
- Dobak, William A., and Thomas D. Phillips. *The Black Regulars, 1866-1898*. Norman: University of Oklahoma Press, 2001.
- Dunlay, Thomas. *Wolves for the Blue Soldiers: Indian Scouts and Auxiliaries with the United States Army, 1860-90*. Lincoln: University of Nebraska Press, 1982.
- Goetzmann, William H. *Army Exploration in the American West, 1803-1863*. New Haven, Conn.: Yale University Press, 1959.
- Millett, Allan R., and Peter Maslowski. *For the Common Defense: A Military History of the United States of America*. New York: The Free Press, 1994.
- Rickey, Don. *Forty Miles A Day on Beans and Hay: The Enlisted Soldier Fighting the Indian Wars*. Norman: University of Oklahoma Press, 1963.
- Smith, Sherry L. *The View From Officers' Row: Army Perceptions of Western Indians*. Tucson: University of Arizona Press, 1990.
- Smits, David D. "Fighting Fire with Fire: The Frontier Army's Use of Indian Scouts and Allies in the Trans-Mississippi Campaigns, 1860-1890." *American Indian Culture and Research Journal*, vol. 22, no. 1 (1998): 73-116.
- Tate, Michael L. *The Frontier Army in the Settlement of the West*. Norman: University of Oklahoma Press, 1999.
- Utey, Robert M. *Frontiersmen in Blue: The United States Army and the Indian, 1848-1865*. New York: The Macmillan Company, 1967.
- . *Frontier Regulars: The United States Army and the Indian, 1866-1891*. Lincoln: University of Nebraska Press, 1984.
- Weigley, Russell F. *History of the United States Army*. Bloomington: Indiana University Press, 1984.
- Wooster, Robert. *The Military and United States Indian Policy, 1865-1903*. New Haven, Conn.: Yale University Press, 1988.

Art

Over the years, U.S. Indian policy has often been represented in, and perhaps at times influenced by, artistic depictions of Native American history and culture. For some works, the impact of art on policy is readily apparent and intentional; for others, the influence is more tangential and suggestive.

Some artists have used their work to promote a singular vision of how the United States should treat Native Americans. Others have depicted idealized or exaggerated views of significant events in the history of U.S.-Indian relations in order to shock, explain, inspire, or justify. Just as U.S. policy makers rationalized the treatment of American Indians—from removal to isolation on reservations and forced acculturation at boarding schools—art, in every popular medium, has visually presented reasons for policies and actions at the federal level. Presentations of Indian life and action, along with sweeping panoramas of open spaces awaiting the hand of civilization, have helped to justify federal policy.

In earlier days, U.S. policy makers and citizens often based their perceptions of Indian culture on images, literature, and hearsay. Making matters more complicated, many of these depictions were created by artists who had little familiarity with Native culture. Conversely, artists such as George Catlin in the nineteenth century traveled among Native peoples and painted them on location.

Over time, the American public developed expectations of what they wanted to see when presented with an image of an Indian. Artistic depictions of Native Americans were popularized in various ways. Some of these creations made their way onto or into postage stamps, coins, advertisements for Wild West shows, novels and history books, cyclorama exhibits, parlors and stereographic viewers, and American saloons and bars. Artists, sculptors, and writers fixed an image of American Indians in the minds of non-Indians, and by the end of the nineteenth century Americans generally expected depictions of Indians to represent people from the Plains cultures. Depictions of Native people from the Pacific Northwest or the Southeast, for example, challenged the stereotype of Native culture that had developed in American art, and so they were overlooked by the American public.

The Frontier and American Art

Policy formulation at the national level is one thing; execution at the local level is another. It was at the local level, on the “frontier” as historian Frederick Jackson Turner explained in 1893, that the policies of the federal government were implemented. Turner’s paper, “The Significance of the Frontier in American History,” presented to the American Historical Association at the 1893 World’s Fair in Chicago, espoused the idea that the frontier as a process had ended and, as a location, was no more. He described the frontier as “the meeting point between savagery and civiliza-

tion” and explained how the frontier began with “the Indian and the hunter,” and then passed through several stages as the West was explored, settled, colonized, and then industrialized by white Americans. As this occurred, Turner argued, Indian societies and cultures disintegrated. There is no more succinct expression of the underlying artistic themes that represented U.S. policy actions in the nineteenth century and early twentieth century. Art depicting U.S.-Indian relations must therefore be viewed with Turner’s description of the American mental construction of the frontier in mind.

Long before Turner delivered his thesis, George Berkeley, an Irish-born philosopher and Anglican bishop, wrote a poem on education in the colonies entitled “On the Prospect of Planting Arts and Learning in America” (1726). The final stanza began, “Westward the course of empire takes its way.” Because Berkeley was a well-known and respected thinker, the poem received widespread popular attention. In 1860, when Congress asked the renowned painter Emanuel Leutze to decorate a stairway in the National Capitol Building, he chose that line as the title of his painting. More popularly known as *Westward Ho*, the painting graphically encapsulates the breaching of the frontier (and Indian lands) as much as Turner’s words did in defining the frontier. More emphatic in its message on the fate of the Indian within the history of U.S. policy was *American Progress* (1872) by John Gast. Gast portrayed the advancing white civilization and its technology, the railroad and the telegraph line, moving from right to left across the canvas. On the far left side of the painting Indians and wildlife flee the encroaching Americans.

The Noble and Ignoble Savage

In the nineteenth century, portrayals of Indians and their cultures were represented in a sort of dichotomy. On the one hand were the representations of the savage, ignoble Indian—that is, works emphasizing the cruelty and barbarity of the Native foe. In doing so, they helped assuage guilt about eradication, removal, and reservations. Anyone viewing George Wimar’s painting *The Attack on the Immigrant Train* (1856) thought twice before heading west, because the painting helped encourage the fear that Indians would be the most frightening and difficult challenge faced on the western trails. In fact, disease, starvation, and natural obstacles killed many more American pioneers than Native assailants.

Another common subject was the white American, typically a woman, taken captive by blood-thirsty Indians. John Vanderlyn’s 1804 depiction of the death of Jane McCrea during the Revolutionary War set a standard for such genre.

John Gast's "American Progress" (1872) depicts the advance of white civilization and technology while Native Americans flee. Such idealized images encouraged settlement in the West at the expense of Native inhabitants.



Henry Farney's 1885 painting *The Captive* and Irving Couse's 1892 painting of the same title each portray a solitary white captive, bound and stoically awaiting a frightening fate. These portrayals also helped ensure that the racial tension between Indian and non-Indian continued and that policymakers did not forget that Native Americans were a violent force to be overawed and subdued.

On the other side of the dichotomy was the theme of the disappearing "noble savage." It was designed to bemoan the loss of a romantic natural past and to clarify the need to incorporate Indians into civilized American culture before they became extinct. For some artists, the passing of the Indian represented what was being sacrificed by expansion, industrialization, and urbanization. Although some of these depictions were idealized, even those artists who offered a more realistic portfolio, such as George Catlin, wanted to capture Indian life before it disappeared. Catlin offered a broad panoply of over five hundred portraits and representations of Native life on the Great Plains and in the Southeast. In 1841 he published a two-volume work, *Letters and Notes on the Manners, Customs, and Condition of the North American Indian*, illustrated with engravings of many of his works. Catlin claimed in the book that the purpose of his paintings was to "rescue" the memory of the Indians, because they

were "doomed and must perish." His paintings of buffalo hunts and wide vistas of flat and fertile-looking lands encouraged viewers to respond in one of two ways. The first response was to suggest that the old ways were falling away and that Indians would have to give up their tribal lands and assimilate into white society. The second response invited white Americans to head westward and replace the dying Indian race in those open spaces.

Albert Bierstadt also depicted romanticized western terrains awaiting white civilization. *The Rocky Mountains, Landers Peak*, painted in 1859, depicts an Indian village in the grandeur of an unspoiled land. Bierstadt's works, by idealizing western lands and inviting settlers into them, served as justification for taking Indian lands. The absence of Natives in some of the landscapes of artists of this time suggested to Americans that the land was vacant, beautiful, and there for the taking.

Other artists, such as Frederick Remington and Charles Russell, helped fantasize the death and destruction that resulted from the westward expansion. Remington's paintings *Fall of the Cowboy* (1895) and *Rounded Up* (1901) typified the western genre, showing the "Old West" in dramatic and idealized fashion and the Indian as the dangerous but disappearing threat to American order and expansion.

Portrayals of untouched land and heroic pioneers not only helped to justify the wisdom of relocation and battle, but also firmly implanted in settlers' minds that they were the leading edge of civilization. Popular art such as photography and dime novel etchings, railroad maps, and *Harper's Weekly* cartoon engravings helped stir friction between settlers fired up by inaccurate and often violent depictions of Native life and culture and Indians whose land was suffering from the encroachment by American settlers. Conflicts between Indians and settlers further emphasized for whites the need to "civilize" the "savage."

Other artists were willing to challenge the status quo of glorifying American expansion. Thomas Nast, one of the most significant political cartoonists in the history of American journalism, offered two cartoons that typified his incisive and creative ability to tell a story in lines. The first, an 1886 cartoon, portrays an Indian representing the Cherokee Nation held down Gulliver-style by white exploiters, such as ranchers and Indian agents. The second, an 1890 cartoon entitled "The Reason for the Outbreak," a reference to the Wounded Knee massacre, shows a portly, well-dressed "Indian Agent" next to a skeletal warrior and his tattered teepee. The messages in these drawings are unmistakable, but they were still unable to influence a change in the policies then in place.

As the field of photography expanded, American photographers did with chemicals and exposure what painters and sculptors did with their media. Edward S. Curtis captured people and places not only with an artistic flair, but with spirit in mind as well. Curtis took over forty thousand photographs of Native peoples all over the North American continent and published a twenty-volume encyclopedia entitled *The North American Indian (1907–1930)*.

The National Capitol Building

The clearest demonstration of the connection between art and U.S. Indian policy can be found at one of the epicenters of federal policy: the National Capitol Building. It is filled with art in all forms, much of it depicting the history of Indian relations with the United States. Indian cultures are woven into the headdress and robes worn by the Statue of Freedom atop the Capitol dome, and they crown the pediment of the Senate East Wing facade. Depictions of Native Americans stand in marble and rest in reliefs. A stranger to this land, seeing all this art and unaware of the history of the last two centuries, might conclude that Indians have been special and honored peoples within these boundaries rather

than people often marginalized by the government and shunted into isolation on reservations.

American Indian portrayals were first introduced to the Capitol in 1825. John G. Chapman's *Baptism of Pocahontas* (1840) was the one of the first pieces of art to depict the theme of religious conversion of the Indians, ironically in a government building committed to the idea of religious freedom and pluralism. John Vanderlyn's *Landing of Columbus* (1846) portrayed Christopher Columbus and his men standing under a ray of light while Indians cowered in the shadows behind trees. It supported the idea that European explorers came armed with the right to take land and the duty to convert Native peoples to Christianity and that the United States was the proper successor to that right and duty. Canvases by William H. Powell in 1853 on Hernan Desoto and by Albert Bierstadt in 1874 on the discovery of the Hudson River added to the idea that the conquest of the Americas was a legal and moral act that helped lead to the founding of a blessed empire.

In 1863 a sculpture by Thomas Campbell, *Statue of Freedom*, was placed atop the Capitol dome, not accidentally facing westward. The female figure's crown, originally designed as a slave's freedom cap, was replaced at the insistence of Congress with a Romanesque helmet. Campbell, however, included an Indian-style feathered adornment and cloaked the figure in Indian robes. Campbell's creation on the pediment of the Senate entrance, *Progress of Civilization* (erected in 1863), captures in stone what Turner did verbally and Leutze did in oils. From the right to the left, an Indian family is shown in poses of resignation. The pioneer carving out the "wilderness" stands beside the central figure "America." To her left are a soldier, a merchant, two youths, a teacher and student, and a mechanic, who represent completed civilization. American culture, it implies, triumphed over that of the American Indian.

John C. Ewers, a noted American ethnologist, observed in the 1960s in his paper "Fact and Fiction in the Documentary Art of the American West" that "a fictitious picture can do more harm than a false statement, for it may be retained in the viewer's memory long after written words are forgotten." That the first drawing of *Custer's Last Stand* appeared in the *New York Daily Graphic* on July 19, 1876, by an artist who had never been west of New Jersey, had never seen an Indian, had never been in a battle, and had never seen Custer only lends credence to Ewers's observation. The 1896 Anheuser-Busch lithograph of Otto Becker's painting *Custer's Last Fight* is one of the most widely recognized

paintings in U.S. history. However, its glorification of the arrogant commander who disobeyed orders in order to attain personal glory demonstrates how artists could transform the true meaning of an event from one in which Native people violently attempted to resist the intrusion of trespassers onto their lands, leading to the near-destruction of their culture, into an exercise in patriotic martyrdom at the hands of violent savages.

By 1890 the Indian wars were over, the American Indian population had reached its demographic low point, and Frederick Jackson Turner would soon declare the frontier closed. The General Allotment Act (Dawes Act) of 1887, which would result in a vast seizure of Indian land, was in the first stages of implementation. Indians were being forced to abandon their languages and cultures in boarding schools. The mythologization of the conquest of the West was also in its early stages, and American artists, along with dime store novelists, Wild West show entrepreneurs, and, later, filmmakers, were primary contributors to continuing the themes of the conquest of the frontier and the decline and fall of the noble and ignoble savage.

American Indian Artistic Responses

Native Americans had their own views on what they were encountering from the United States, and they were just as adept in representing their own messages in pictures. Native biographic art—pictographs, winter counts, and ledger art—was highly personalized and could be composed of decorated rocks, robes, shields, hides, and, later on, ledger books, paper, canvas, and muslin. This art form told of individual Native acts during combat with Indian and non-Indian opponents. Today, examples of this art form are highly valued for their ethnohistorical value as much as for their artistic form.

Several significant pictographic collections show the effects of federal policy. Two of them, the Southern Cheyenne Dog Soldier Society ledger and the Oglala Amos Bad Heart Bull ledger, are especially important. The Dog Soldier Society ledger is an account of several warriors in their battles with U.S. Army soldiers and settlers in the Central Plains after the Civil War. Many of the drawings are matched to corroborate Cheyenne oral history and tradition. Amos Bad Heart Bull's 415 drawings in a single ledger book capture Oglala Sioux history from precontact to the year of his death in 1913. These drawings portray warfare, tribal organizations, regalia, dances, and customs. Helen Blish's analysis and editing of the drawings helped preserve a

detailed picture of Lakota life for both Lakota and non-Indian audiences.

Native art produced from the 1870s into the twentieth century was generally influenced by the unbridled expansion into Indian lands after the Civil War. Art in the early reservation period tends to have a more collective nature, because Indian artists felt compelled to capture graphically as much culture, lifestyle, and history as possible. Indian art from this time clearly shows longing for the days before the arrival of white Americans.

Throughout the twentieth century and into the twenty-first century, American Indians have created works of art that address their individual and collective relationships with the U.S. government. In many instances, American Indian artists have focused on expressing their own personal and cultural identities in their work, which, when considered in the light of federal assimilation policies, are powerful statements of cultural resistance. Although some works confront the topic overtly, others have multiple layers of meaning, sometimes masked in humor, as a way to engage the audience initially at the visceral level before cleverly communicating a deeper and more poignant message. Still other works are inherently political statements simply by their existence, whether they were created for the market or for personal use within the community. Objects such as pottery, basketry, and even pow-wow clothing are elegant reminders of American Indian cultural survival, despite generations of harsh government policies and legislation.

As the American Indian fine art movement matured in the mid-twentieth century, artists increasingly began to work in styles and to address issues reflecting the artistic movements of the period. For example, Fritz Scholder (Luiseno, 1937–2005), who taught at the Institute of American Indian Arts in Santa Fe, New Mexico, painted and created graphic images of American Indians in a pop art style that attempted to counterbalance the romantic and stereotypical images of Indian people. In doing so, Scholder often had his subjects confront viewers and challenge them to rethink what they know about American Indians. By using bright, garish colors, Scholder allowed his work to immediately capture the viewer's attention, but the compositions are not pastoral or calm. The anonymous figures pulsate with an unexpected energy and vitality. In one of his more iconic works, Scholder depicted a figure, clearly identifiable as an Indian, wrapped in an American flag. Painted after the occupations of Alcatraz and Wounded Knee, the work affirms that Indians are also Americans—in fact, the First Americans—and that



David Bradley's "Treaty Dollar" mimics the form of a U.S. dollar bill, but interposes Sitting Bull's face at the center, flanked by mirror images of Lt. Col. George Armstrong Custer. The work refers to the federal government's purchase of Indian lands for little money in return.

the flag is symbolic of American Indians' collective view of the sacredness of the land, regardless of the government policies that it represents.

Bob Haozous (Warm Springs Chiricahua Apache, 1943–) is a contemporary American Indian sculptor whose work has at times confronted U.S. policy toward American Indians and indigenous people. Haozous, the son of the acclaimed sculptor Allan Houser, one of the most influential American Indian artists of the twentieth century, is an instructor at the Institute of American Indian Arts. Haozous considers his work to be politically oriented and a rejection of stereotypical imagery and thought. His most controversial work, and perhaps his most significant, is *Cultural Crossroads of the Americas* (1997), which sits on the campus of the University of New Mexico in Albuquerque. The sculpture is cut-steel, fabricated to resemble a billboard in form, scale, and placement. The stencil-like images on one side evoke the figural images from Mesoamerican codices, while the other side is filled with a smoke-belching coal plant and skyscrapers topped with icons of contemporary America, including a dollar sign, a McDonald's arch, a cross, and the Statue of Liberty. Haozous originally intended to include concertina wire to represent the reservations, but this aspect was not realized in the final installation. The work inspires questions about the political boundaries as well as the government and social policies that have led to this moment in which indigenous people, caretakers of the land, no longer have the ability to migrate as they choose and the natural and social environment suffers as a consequence of those failed policies.

Another highly successful contemporary American Indian artist who frequently challenges government policies and legislation in his work is David Bradley (White Earth Chippewa,

1954–). Bradley often works in a folk art narrative style, and many of his paintings reference non-Indian art and artists. A large number of his works also critique the appropriation of American Indian art and culture by non-Indian people, and his reverse referencing is an empowering statement. Bradley sometimes works in series, creating variations on a particular theme. In one such series, *Treaty Dollar*, the rectangular paintings are reminiscent of dollar bills, although the imagery is completely different. In some versions, Bradley substitutes a portrait of Sitting Bull for George Washington, flanked by images of Lt. Col. George Armstrong Custer along with other depictions of Plains Indians on horseback and frontier-era forts with dates referring to the Laramie Treaty of 1868 or the Battle of the Little Bighorn in 1876. These highly successful paintings comment on the federal government's reservation policy and question its ability to purchase land in return for a pittance (the paintings are always one dollar denominations)—the policy that has kept Indians in a cycle of poverty and dependent on the government.

Contemporary American Indian art is a dynamic field and the artists described here are but a few of the talented Native Americans who are creating works that comment on and challenge federal legislation affecting American Indians. Other artists work with various traditional media, and still others work in photography, film, literature, music, dance, and performance art. In their own way, each addresses the issues noted here with an energy and vitality that reflects contemporary American Indian life.

See also *Discovery*, *Doctrine of*, *Film*, *Little Bighorn (1876)*, *Battle of*, *Westward Migration*.

Rodney G. Thomas and William Mercer

BIBLIOGRAPHY

- Afton, Jean, David Fridtjof Halaas, and Andrew E. Masich with Richard N. Ellis. *Cheyenne Dog Soldiers: A Ledgerbook History of Coups and Combat*. Niwot, Colo.: Colorado Historical Society, Denver, and University Press of Colorado, 1997.
- Archuleta, Margaret, and Rennard Strickland. *Shared Visions: Native American Painters and Sculptors in the Twentieth Century*. Phoenix: Heard Museum, 1991.
- Berlo, Janet Catherine, ed. *Plains Indian Drawings, 1865–1935: Pages From a Visual History*. New York: Harry N. Abrams Publishers, 1996.
- Berlo, Janet Catherine, and Ruth B. Phillips. *Native North American Art*. London: Oxford University Press, 1998.
- Bjelajac, David. *American Art: A Cultural History*. New York: Harry N. Abrams Publishers, 2001.
- Blish, Helen H. *A Pictographic History of the Oglala Sioux*. Lincoln: University of Nebraska Press, 1967.
- Burnham, Patricia M., and Lucretia Hoover Giese. *Redefining American History Painting*. Cambridge, Mass., and New York: Cambridge University Press, 1995.
- Catlin, George. *Letters and Notes on the Manners, Customs, and Conditions of the North American Indian*. New York: Dover Publications, 1974.
- Curtis, Edward S. *The North American Indian*. 20 vols. Various publishers, 1907–1930.
- Dippie, Brian W. *Custer's Last Stand: The Anatomy of an American Myth*. Lincoln: University of Nebraska Press, 1976.
- Fresonke, Kris. *West of Emerson: The Design of Manifest Destiny*. Los Angeles: University of California Press, 2003.
- Grossman, James R., ed. *The Frontier in American Culture: An Exhibition at the Newbery Library, August 26, 1994–January 7, 1995*. Berkeley: University of California Press, 1994.
- Hill, Rick. *Creativity Is Our Tradition: Three Decades of Contemporary Indian Art at the Institute of American Indian Arts*. Santa Fe, N.M.: Institute of American Indian Arts, 1992.
- McDermott, John Francis, ed. *The Frontier Re-examined*. Urbana: University of Illinois Press, 1967.
- Sanchez, Joseph, ed. *Bob Haozous: Indigenous Dialogue*. Santa Fe, N.M.: Institute of American Indian Arts Museum, 2006.
- Truettner, William H., ed. *The West as America: Reinterpreting Images of the Frontier, 1820–1890*. Washington, D.C.: Smithsonian Institution Press, 1991.
- Turner, Frederick Jackson. *The Frontier in American History*. New York: Henry Holt, 1947.
- Wilmerding, John, Jeremy Strick, and Richard Newlin. *Fritz Scholder, Paintings and Monotypes*. Santa Fe, N.M.: Twin Palms Publishers, 1988.
- Wilson, James. *The Earth Shall Weep: A History of Native America*. New York: Atlantic Monthly Press, 1999.
- “Works of Art in the Capitol Complex.” Architect of the Capitol, www.aoc.gov/cc/art/index.cfm.

Articles of Confederation

The Articles of Confederation was the original governing document of the United States of America, in effect from 1781 until 1789, when the U.S. Constitution was ratified. The Articles set up a loose confederation style of government, with the states retaining significant power. The Articles

gave the national Congress “the sole and exclusive rights and power of . . . regulating the trade and managing all affairs with the Indians, not members of any of the States, provided that the legislative right of any State, within its own limits be not infringed or violated.”

The 1780s were characterized by turmoil on the fringes of the thirteen new states and by conflict between the states and the national government. The national government attempted to institute a unified foreign policy, while the states continued to set their own policies toward Native nations in their immediate areas. The situation was exacerbated by the colonists’ strong desire for land after the American Revolutionary War (1775–1783); constant boundary disputes involving Native nations, the states, the national government, Britain, and Spain; and British attempts to pacify their former Indian allies whose interests had been ignored in the treaty process that ended the war.

The need for peace on the fragile new nation’s edges was a critical policy issue during this period. In an effort to manage Indian affairs, the Continental Congress made repeated attempts to establish the national government’s authority. These included:

- a 1783 proclamation prohibiting “settlement on lands inhabited or claimed by Indians” outside state boundaries without the permission of Congress
- the 1786 Ordinance for the Regulation of Indian Affairs, which reasserted this prohibition and made it the law
- the Northwest Ordinance in 1787, which established the Northwest Territory

None of these efforts was successful in curtailing illegal settlement, ending states’ mistreatment of Indians, or effectively asserting national authority. In both the North and South, the late 1780s were characterized by constant threats of warfare due to colonists trespassing on Indian lands.

New York, North Carolina, and Georgia were particularly determined to deal with American Indians independently of the new national government. The State of New York, for example, granted Iroquois Confederacy lands to its former soldiers, whereas the national government negotiated the 1784 Treaty of Fort Stanwix, which guaranteed national protection of Iroquois lands against seizures or encroachments.

The U.S. government under the Articles of Confederation, with a weak national government facing strong state governments, proved unworkable. This led to the 1787 Philadelphia Convention, which was designed to amend the Articles, but instead led to the drafting of the U.S. Constitution.

See also *American Revolutionary War; Constitution, U.S.*

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BIBLIOGRAPHY

- Barreiro, Jose, ed. *Indian Roots of American Democracy*. Ithaca, N.Y.: Akwe:kon Press, 1992.
- Deloria, Vine, Jr., and David E. Wilkins. *Tribes Treaties and Constitutional Tribulations*. Austin: University of Texas Press, 1999.
- Grinde, Donald A. Jr., and Bruce E. Johansen. *Exemplar of Liberty: Native America and the Evolution of Democracy*. Los Angeles: University of California Press, 1991.
- Lyons, Chief Oren, and John Mohawk, eds. *Exiled in the Land of the Free: Democracy, Indian Nations, and the U.S. Constitution*. Santa Fe, N.M.: Clear Light Publishers, 1992.

Assimilation and Acculturation

Assimilation and acculturation are terms that feature prominently in the history of United States Indian policy and law. Although closely allied and often combined, they refer to fundamentally different processes. Technically speaking, assimilation is a social process and acculturation is a cultural process. Although not always explicit in policy discussions, that distinction has proven useful for analytical purposes because it highlights two very different approaches to the management of Indian affairs.

Assimilation occurs when individuals from a subordinate group, such as the Zunis or Iroquois, are absorbed into a dominant group, such as Euro-Americans. Acculturation takes place when the subordinate group learns the dominant group's language, values, habits, and practices. Either process can occur voluntarily or through coercion. Different members of a community acculturate or assimilate at different rates and to different degrees. This was a matter of great scholarly interest in the 1950s and 1960s, and acculturation studies greatly influenced policy making at the time. Social scientists now recognize the ethnocentric assumptions that underpinned much of that work. Nonetheless, the studies had a lasting impact on Native American communities.

When used in the context of U.S. Indian policy and law, acculturation and assimilation signal very different ways of interpreting facts on the ground and envisioning the future. During periods when acculturation was the main objective, policy makers and reformers devised policies and programs to "civilize" the Indians, yet keep them apart from whites. When assimilation was their goal, they took steps to erode tribal or communal identity and incorporate Indians into mainstream society as individuals. The prevailing wants, needs, and attitudes of the white American mainstream

determined which approach they favored. Only rarely did anyone take into account the wishes of those Native Americans affected.

The Civilization Program

During the colonial period, the nations that vied for control of North America viewed Native Americans as landowners, potential military allies or enemies, trading partners, and laborers rather than as candidates for assimilation. The French and British used the notion of "civilization" to justify their exploitation of the Indians and took limited steps to convert them to Christianity and educate them in European ways. They also introduced trade goods such as kettles and metal tools, which the Indians readily accepted. The British hoped the creation of a demand for such goods would ease their acquisition of Indian lands, and the French hoped it would bind the Indians to them as partners in the fur trade.

Many tribes allied with the British during the American Revolutionary War (1775–1783). In the immediate aftermath, the Continental Congress treated all Indians as defeated enemies and operated on the assumption that they had forfeited their rights to the land when the British signed the Treaty of Paris in 1783. An Ordinance for the Regulation of Indian Affairs created an Indian Department to oversee trade with the Indians in 1786, but it was up to Henry Knox, secretary of war (1785–1794) under President George Washington (1789–1797), to develop a framework for Indian policy. Acculturation was at the heart of that framework.

Knox sought to manage the nation's westward expansion in a just, peaceful, humane, and cost-effective way and successfully advocated a return to the pre-Revolution practice of negotiating with the Indians for their lands. He believed that it would be immoral and contradictory to the ideals of the new republic to wait for the Indians to eventually and inevitably disappear when by civilizing them they could be saved. Washington shared Knox's Enlightenment faith in the progress of humankind from a state of savagery to civilization and supported his policy initiatives. Reflecting the ethnocentrism of the time, both men believed Native Americans existed at a lower stage of development but, by adopting a Euro-American way of life, could progress to being civilized.

As had his colonial predecessors, Knox used the notion of civilization to justify westward expansion. In a 1789 report on the Creeks, he argued that a policy that introduced agriculture and the arts of civilization to the Indians would encourage them to abandon their tribalism and traditional

lifeways, adopt private property, and become farmers. From the Treaty of New York, signed with the Creek in 1790, and the Treaty of Holston, signed with the Cherokee in 1791, onward, nearly all treaties contained provisions that promoted agriculture. Soon thereafter, treaties also began to include provisions for conversion to Christianity and education. In the 1790s Congress passed three trade and intercourse acts that sought to protect the tribes in the meantime by regulating commerce and contact with white settlers. The 1796 act also provided for the distribution of agricultural implements and other goods and the appointment of agents to oversee the civilization program. These four elements—promotion of agriculture, conversion to Christianity, education, and restricted contact between Indians and whites—were the cornerstones of federal Indian policy well into the nineteenth century and influenced aspects of it beyond that.

The civilization program of Knox and Washington was institutionalized in the factory system of trading posts established in 1796. These trading posts, they reasoned, would further the acquisition of Indian lands and the Indians' acculturation by fostering a demand for consumer goods. Such a demand could only be satisfied by the Indians ceding their lands and adopting agriculture and private property.

Knox's policies received their fullest extent during the administration of President Thomas Jefferson (1801–1809). Jefferson, like Knox and Washington, was a product of the Enlightenment. He recognized in the Indians the “natural man” spoken of by eighteenth century philosophers and felt morally obliged to introduce them to agriculture and the domestic arts and thereby prepare them to adopt the American way of life. Jefferson and his secretary of war, Henry Dearborn, believed that stripping the Indians of their land was an essential step in elevating them to this highest state of civilization. Jefferson, like Knox before him, occasionally advocated intermarriage between Indians and whites as a means of hastening acculturation. Some Native Americans, most notably the Cherokee, began to adopt Western agricultural methods and tools and embrace other Euro-American practices, but many more resisted. When it became clear they could not balance the aspirations of the civilization program with the escalating demands of a rapidly increasing settler population and economy, Jefferson resorted to more coercive means to achieve his objectives.

In 1830, during the presidency of Andrew Jackson (1829–1837), Congress changed tactics and passed the Indian Removal Act. This paved the way for relocating the remaining eastern tribes to Indian Territory west of the Mississippi

River. Once there they would be free to acculturate at their own pace under the guidance of Christian missionaries and educators, or so the argument went. Many of those tribes had already undergone extensive acculturation. Such was the case with the Cherokees, Choctaws, Chickasaws, Creeks, and Seminoles, who came to be known collectively as the Five Civilized Tribes in recognition of that fact. Most eastern tribes did not want to relocate and resisted. Some did so with force, as did the Seminoles in what became the Second Seminole War (1835–1842). The Cherokees fought their removal through the courts, and the Supreme Court ultimately decided in their favor in *Worcester v. Georgia* (1832). Andrew Jackson ignored that ruling and supported the state of Georgia in removing the Cherokees, many of whom were already relatively acculturated, west of the Mississippi.

The addition of Texas, Oregon, and most of the present-day American Southwest to the United States in the 1840s prompted increasing numbers of white settlers to push west. Rather than keep whites out of Indian Country, the government used treaties to extinguish tribal territorial claims and isolate the Indians on reservations. Typical of this process were the treaties forged with the Cheyennes, Lakotas, Crows, and other northern Plains groups at Fort Laramie in 1851 and with the Comanches, Kiowas, Apaches, and other southern groups at Fort Atkinson in 1853. Just as removal did in the east, these treaties opened vast swaths of land in the west for white settlement. They also promised the tribes protection against criminal acts committed by the whites and annuities, goods, and services intended to hasten their acculturation. Many of the Indians who signed the treaties did so under duress or because they saw no other way forward in an increasingly white-dominated world. Despite the legal aura that enveloped the treaties, the U.S. government often failed to deliver the goods and services agreed upon, which impeded acculturation and led to decades of legal wrangling in the twentieth century.

The renewed westward movement of settlers after the Civil War (1861–1865) put to rest the notion that Indians and whites could be kept apart and that there was time for the Indians to gradually acculturate. President Ulysses S. Grant (1869–1877) responded to that new reality with his Peace Policy of the 1870s. This new separation and acculturation strategy relied on a board of commissioners to oversee Indian affairs. It also allocated administrative responsibility for each Indian agency to one of several religious denominations, which was to promote the Indians' acculturation. Grant's approach originated in the idealism of the

Reconstruction era, but nonetheless failed to resolve the so-called Indian problem.

The Assimilation Campaign

By the late 1870s, Congress was grappling with the unexpectedly high cost of maintaining the Indians on reservations and looking for new ways to streamline the system and thereby reduce the fiscal burden. In 1879 a series of crises focused the public's attention on failures in the reservation system. Those, coupled with the budgetary concerns, precipitated a shift to assimilation as the federal policy objective. Business leaders and settlers who coveted Indian lands and their resources strongly supported that change in emphasis.

By the 1880s the reservations and tribal land base had become the targets of a three-pronged attack on tribal identity. The policy objective was to speed the Indians' assimilation by undermining their tribal ties. Policy makers aimed to accomplish that by eroding the tribal land base, providing what was deemed the right sort of education to Indian children, and promoting citizenship. This furthered an ongoing, federally backed campaign to "Christianize" the Indians, suppress their traditional religious practices and forms of marriage, and undermine their political and economic institutions.

Henry Teller, commissioner of Indian affairs from 1882 to 1885, and reformers like anthropologist Alice Fletcher, favored education as a means to speed assimilation. Consequently, education was taken out of the hands of the missionaries and placed under professional control. Leading the way were two boarding schools, the Hampton Institute in Virginia and the newly founded Carlisle Industrial Training School in Pennsylvania. These and similar schools prohibited the use of Native languages and forced Indian children to learn and speak English. They taught reading, writing, and arithmetic and prepared Indian students to become self-sufficient members of American society by offering them training in manual skills. Thomas Jefferson Morgan, commissioner of Indian affairs from 1889 to 1893, spearheaded educational reform aimed at speeding the Indian's assimilation into the American mainstream, advocating that day schools be opened on all reservations. In 1894 William Hailmann, superintendent of Indian education, took matters one step further. He proposed integrating Indian children into the public school system where they could benefit from the civilizing influences of their white peers.

Tribal lands, however, remained the main barrier to assimilation in the minds of many. In addition to wanting to

reduce the tribal land base to save money and undermine tribalism, the government wanted to make more land available to white settlers. This conveniently meshed with a strategic desire to turn the Indians into self-sufficient farmers and ranchers who would soon blend into the general population. Carl Schurz, Helen Hunt Jackson, and other reformers, many of them participants in the Lake Mohonk Conference, pressured Congress to abolish the reservation system, arguing that it contributed to the Indian's "lack of progress."

The General Allotment Act of 1887 was a cornerstone of the assimilation program. Also known as the Dawes Severalty Act, it reflected an assumption that Indians could be incorporated into mainstream society. Moreover, it addressed the issues of land, education, and citizenship, all in one piece of legislation. The act provided for the breaking up of reservations into smaller parcels of land—allotments—that were then given to individual Indians. Land that was left over was considered "surplus" and could be sold to non-Indians.

The New Realism

Just after the turn of century, the New Realism of Theodore Roosevelt and the Rough Riders replaced the assimilationist consensus of the 1880s and 1890s. During the preceding period, Indians were seen as steadily progressing to a higher state of development. In the new century, lower expectations prevailed and Indians were treated as incapable of more than limited progress. Francis Leupp, commissioner of Indian affairs (1905–1909) during Theodore Roosevelt's presidency (1901–1909), felt that it was foolish to expect too much out of the Indian. Landownership and citizenship, he argued, would not produce equality and racial integration. Consequently, the assimilation program should aim to improve rather than transform the Indian. Leupp believed that the Indian's "backwardness" could not be completely overcome and they would simply have to accept outside control in the name of progress.

In 1906 Congress passed the Burke Act to address perceived inadequacies in the Dawes Act, including its failure to provide the Indians with the necessary financial resources to develop their allotted lands and thereby ensure their survival. The Burke Act gave the federal government more control over Indian resources. While it created new protections for the Indians, it also smoothed the way for the removal of federal restrictions on Indian lands, which made those lands subject to taxation and enabled their Indian owners to sell them to whites.

The most tangible outcome of the Dawes and Burke acts was the transfer of millions of acres of land from Indians to non-Indians. As commissioner of Indian affairs, Robert G. Valentine (1909–1912) furthered that agenda with the 1910 Omnibus Act. The Omnibus Act provided for Competency Commissions to identify those Indians acculturated enough to manage their own affairs. Many of the Indians who were ruled “competent” then sold their land to non-Indians.

In 1917 Commissioner Cato Sells (1913–1920) redefined assimilation as the process of freeing Indians to seek their own destiny in the expanding society. Daily interaction with white people was now deemed more critical for assimilation than landownership and economic independence.

The New Deal Era

In the early 1920s, groups such as the American Indian Defense Association, headed by John Collier, began to counter the increasingly extreme assimilationist legislation put forth by individuals seeking to terminate federal responsibility for the Indians with calls for Indian self-determination. Due in part to the pressures exerted by reformers like Collier, the Office of Indian Affairs (OIA) asked the Institute for Government Research, predecessor to the Brookings Institution, to review federal Indian policy and make recommendations for its improvement. The institute reported its findings in a report entitled *The Problem of Indian Administration* (1928). Now known as the *Meriam Report*, it was highly critical of federal policy. It strongly condemned the administrative emphasis on Indian property rather than Indian persons and recommended that the government adopt a policy of cultural pluralism in place of the then current assimilationist approach. During the Herbert Hoover presidential administration (1929–1933) some of the *Meriam Report's* recommendations were implemented, particularly in the areas of health care and education. Nonetheless, little was done to halt the erosion of the Indian land base or strengthen tribal government.

Much changed during John Collier's tenure as commissioner of Indian affairs (1933–1945). He introduced the 1934 Indian Reorganization Act (IRA; also known as the Wheeler-Howard Act), which encouraged tribes to adopt constitutions and bylaws and provided for their corporate economic organization. Although the final version represented a compromise between advocates of self-determination and those of assimilation, the abolition of the allotment system and provisions designed to strengthen tribal government entailed a break with the past. In passing the legisla-

tion, Congress had resisted what it perceived as measures that would prolong Native Americans' special status, urging instead that they be assimilated into American life as full and equal participants. Critics of the IRA nonetheless point to its continuing paternalism and aggressive promotion of American models of governance as evidence that assimilation was, indeed, its aim.

Termination and Relocation

Congress created the Indian Claims Commission in 1946 to settle claims levied against the federal government by Native Americans. Although touted as a major victory for the Indians, in reality it merely paved the way for the termination of federal responsibility over them by clearing the backlog of tribal claims deriving from treaty violations and land seizures. The wealth generated for the tribes by the claims settlements strengthened the position of those legislators pushing for termination, and in 1947 Acting Commissioner William Zimmerman told a Senate committee that tribes like the Menominees and Klamaths were sufficiently acculturated to be removed from federal jurisdiction.

By the early 1950s, a desire to cut federal spending in the aftermath of World War II (1939–1945) and promote national unity during the Cold War put assimilation back on the agenda. In 1953 two major pieces of legislation were signed that had rapid assimilation as their objective. House Concurrent Resolution 108 called for the termination of federal control over the Indians in several states and on several reservations, and 67 U.S. Stat. 588 gave five states civil and criminal jurisdiction over the Indians within their borders. In 1954 termination bills were introduced for several tribes. By 1961 federal control over the Menominees, Klamaths, and a number other tribes had been terminated.

Meanwhile, Commissioner Dillon S. Myer (1950–1953) took steps to resolve the unemployment problem on reservations by instituting measures that encouraged young Indians to relocate to urban industrial areas. More than sixty-one thousand Indians relocated under the program between 1950 and 1967, joining many others who had already moved to cities. Myer's successor as commissioner, Glenn Emmons (1953–1961), continued the relocation program, but by the late 1950s nearly half those enrolled in the program had returned to their reservations. In 1956 Congress passed the Indian Vocational Training Act, which provided Native Americans with off-reservation vocational training and on-the-job training nearer to home. While this legislation provided a means for Native Americans to improve their eco-

nomic situation, it nonetheless reflected an assimilationist agenda.

1961 Onward

In the early 1960s, the same liberal social currents that gave rise to the antiwar, Red Power, and Civil Rights movements and the War on Poverty caused federal policy to once again turn away from assimilation. While many of the programs developed thereafter would have the effect of acculturation, their ostensible aim was tribal self-determination. By the 1970s the pressures exerted by Indian activists and their supporters were yielding results. In 1973, in recognition of the disastrous consequences of the termination policies of the 1950s, Congress passed the Menominee Restoration Act. In 1975 it passed the Indian Self-Determination and Education Assistance Act, which restored a large degree of self-governance to the tribes. Then, in 1978 it passed the American Indian Religious Freedom Act to protect the religious practices of Native Americans. The movement toward Indian self-determination was also furthered by a series of Supreme Court decisions that upheld tribal sovereignty. Thus, by the 1980s federal Indian policy had come full circle to an acknowledgement of the tribal sovereignty of Native American peoples. Many Native Americans, for their part, were trying to “walk in two worlds,” preserving significant aspects of their traditional tribal culture, while at the same time integrating themselves into American society and the global economy.

See also *American Indian Defense Association; Board of Indian Commissioners; Burke Act; Carlisle Indian School; Civilization Program; Collier, John; Commissioner of Indian Affairs; Curtis Act; Emmons, Glenn L.; General Allotment Act (Dawes Act) of 1887; Grant, Ulysses S.; Hoover, Herbert; Indian Claims Commission Act; Indian Reorganization Act; Indian Vocational Training Act; Jackson, Andrew; Jackson, Helen Hunt; Jefferson, Thomas; Knox, Henry; Lake Mohonk Conferences; Leupp, Francis E.; Menominee Restoration Act; Meriam Report; Myer, Dillon S.; Missions and Missionaries; Morgan, Thomas J.; Race and Racial Thinking; Relocation Program; Removal; Roosevelt, Theodore; Schurz, Carl; Second Seminole War; Self-Determination; Sells, Cato; Standing Bear; Teller, Henry M.; Termination and Restoration; Trade and Intercourse Acts; Washington, George; Worcester v. Georgia (1832).*

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BIBLIOGRAPHY

Barnouw, Victor. “Acculturation and Personality among the Wisconsin Chippewa.” *American Anthropological Association Memoir* 72. Washington, D.C.: American Anthropological Association, 1950.

- Carlson, Leonard A. *Indians, Bureaucrats and the Land: The Dawes Act and the Decline of Indian Farming*. Westport, Conn.: Greenwood Press, 1981.
- Cornell, Stephen. *The Return of the Native: American Indian Political Resurgence*. New York: Oxford University Press, 1988.
- Deloria, Vine, Jr. and Clifford M. Lytle. *The Nations Within: The Past and the Future of American Indian Sovereignty*. New York: Pantheon Books, 1984.
- Dippie, Brian. *The Vanishing American: White Attitudes and U.S. Indian Policy*. Middletown, Conn.: Wesleyan University Press, 1982.
- Fixico, Donald L. *Termination and Relocation: Federal Indian Policy, 1945–1960*. Albuquerque: University of New Mexico Press, 1982.
- Horsman, Reginald. *Race and Manifest Destiny: The Origins of American Racial-Anglo-Saxonism*. Cambridge, Mass.: Harvard University Press, 1981.
- Hoxie, Frederick E. *A Final Promise: The Campaign to Assimilate the Indians, 1880–1920*. London and New York: Cambridge University Press, 1984.
- Hoxie, Frederick E., Reginald Hoffman, and Peter J. Albert, eds. *Native Americans and the Early Republic*. Charlottesville: University of Virginia Press, 1999.
- Kelly, Lawrence C. *The Assault on Assimilation: John Collier and the Origins of Indian Policy Reform*. Albuquerque: University of New Mexico Press, 1983.
- Kvasnicka, Robert M., and Herman J. Viola, eds. *The Commissioners of Indian Affairs, 1824–1977*. Lincoln: University of Nebraska Press, 1979.
- Meriam, Lewis et al., comps. *The Problem of Indian Administration*. Baltimore: Johns Hopkins University Press, 1928.
- Otis, Delos Sackett. *The Dawes Act and the Allotment of Indian Lands*. Norman: University of Oklahoma Press, 1973.
- Peroff, Nicholas C. *Menominee Drums: Tribal Termination and Restoration, 1954–1974*. Norman: University of Oklahoma Press, 1982.
- Priest, Loring B. *Uncle Sam's Stepchildren: The Reformation of United States Indian Policy, 1865–1887*. New York: Octagon Books, 1969.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Satz, Ronald N. *American Indian Policy in the Jacksonian Era*. Lincoln: University of Nebraska Press, 1975.
- Szasz, Margaret. *Education and the American Indian: The Road to Self-Determination, 1928–1973*. Albuquerque: University of New Mexico Press, 1974.
- Washburn, Wilcomb, E. *The Assault on Indian Tribalism: The General Allotment Act (Dawes Act) of 1887*. Philadelphia, Penn.: Lippincott, 1971.

Association on American Indian Affairs (AAIA)

The Association on American Indian Affairs (AAIA) is the oldest continuing advocacy organization for the welfare of Indians and Alaska Natives in the United States. The AAIA strives to protect Native sovereignty, as well as the constitutional, legal, and human rights of individual Indians, and works to preserve Native culture, languages, and traditions.

The organization also endeavors to promote economic and community development, protect tribal natural resources, and improve the health and education level of Native Americans.

The organization originated in 1922, when a group of non-Indians in New York founded the Eastern Association of Indian Affairs (EAIA) to successfully join other Indian advocacy groups in defeating the notorious Bursum Bill, which was designed to enable non-Indian individuals to claim Pueblo land in New Mexico. In 1939, under the leadership of Oliver La Farge, the Eastern Association of Indian Affairs (EAIA) merged with the New Mexico Association of Indian Affairs (NAIA) and the American Indian Defense Association (AIDA) to form the American Association of Indian Affairs.

After defeating the Bursum Bill, the association assisted other tribes facing allotment and began focusing on broader Native American issues. The group worked to promote the social and economic potential of Native American communities without destroying the indigenous cultures. By the early 1970s, the group had turned its attention to promoting tribal self-determination through education, health, and economic development programs. After 1988 the AAIA began to experience financial difficulties and its activities were reduced.

As of early 2008, the AAIA was working to establish partnerships with other Indian tribes and Native organizations with similar missions. The AAIA works on a national level to influence federal Indian policy and is active at the grassroots level in specific Indian communities administering health and educational programs

See also *Bursum Bill*.

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BIBLIOGRAPHY

Association on American Indian Affairs, Inc., www.indian-affairs.org/index.htm.

Kelly, Lawrence C. *The Assault on Assimilation: John Collier and the Origins of Indian Policy Reform*. Albuquerque: University of New Mexico Press, 1983.

Washburn, Wilcomb E., and William C. Sturtevant, eds. *Handbook of North American Indians, Vol. 4: History of Indian-White Relations*. Washington, D.C.: Smithsonian Books, 1988.

Atkin, Edmond

Superintendent of Indian affairs for the southern district of North America from 1758 to 1761, Edmond Atkin

(1707–1761) provided one of the first attempts to centralize Great Britain's Indian policy. After working as a deerskin trader in South Carolina, Atkin returned to England in the early 1750s. There he published the "Historical Account of the Revolt of the Choctaw Indians in the Late War from the French to the British Alliance and of Their Return Since to That of the French" (1753). This essay illuminated the historical problems that had hindered Britain's Indian policies and established Atkin as an expert on Indian policy.

Atkin returned to the subject in 1755 during the French and Indian War (1754–1763), as many British officials realized that France's Indian regulations provided them with loyal Native allies and thus concrete diplomatic benefits. In his "Indians of the Southern Colonial Frontier" (1755), Atkin detailed an Indian policy designed to counteract the advantages enjoyed by the French and Spanish. By subsidizing and centralizing the deerskin trade, Atkin believed lasting alliances could be forged with the southeastern Indians.

In 1758 Atkin returned to South Carolina as the superintendent of Indian affairs for the southern colonies. Though forces such as traders unwilling to adhere to formal policies, the hesitancy of Native Americans to trust and embrace British officials, and a shortage of trade goods limited Atkin's efforts to obtain Native allies, his trading regulations cut short the ability of colonial governments to shape Indian policies and deal with Native nations directly. He resigned in 1761 after a largely ineffectual tenure, and he died soon after.

See also *French and Indian War (1754–1763)*.

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BIBLIOGRAPHY

Fowler, William. *Empires at War: The Seven Years' War and the Struggle for North America, 1754–1783*. New York: Walker & Co., 2005.

Jacobs, William R., ed. *The Appalachian Indian Frontier: The Edmond Atkin Report and Plan of 1755*. Lincoln: University of Nebraska Press, 1967.

Sirmans, M. Eugene. *Colonial South Carolina: A Political History, 1663–1763*. Chapel Hill: University of North Carolina Press, 1966.

Attakullakulla (Little Carpenter)

Attakullakulla (Attacullaculla) (c. 1715–c.1780) was called Little Carpenter because of his small stature and his ability to construct diplomatic treaties. He first came to prominence in 1730 when he accompanied Alexander Cuming, a British treaty commissioner, to England, where he signed one of the

first Cherokee treaties with Great Britain. By the early 1750s, Attakullakulla, renowned for his oratorical skills, had been appointed principal speaker for the Cherokee Nation. In the Treaty of Broad River (1756), he agreed to a Cherokee land cession in exchange for the English promise to build forts in Cherokee territory to protect their women and children while the men were away at war. Although opposed by fellow Cherokees for doing so, he honored treaty promises to the English. However, he played the colonies of South Carolina and Virginia against each other to secure fair trading practices for his people.

In an attempt to prevent the outbreak of the Anglo-Cherokee War (1758–1761), Attakullakulla moved into Fort Loudon to delay its siege. Later in the war, he saved the life of John Stuart and was instrumental in Stuart's appointment as superintendent of the southern Indians. Attakullakulla represented the Cherokees at the Southern Indian Conference (1764) that ratified the Proclamation of

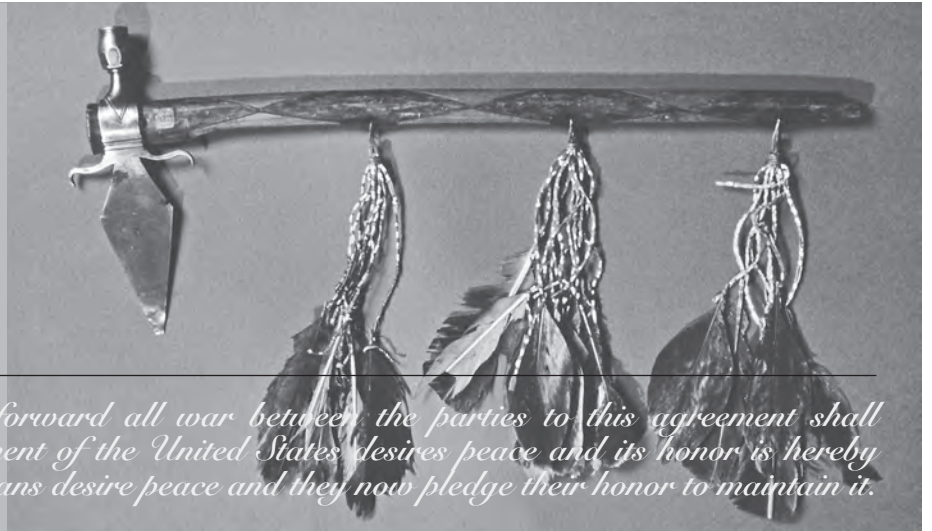
1763. This royal decree established an imaginary line at the Appalachian Mountains beyond which colonists were not allowed to settle. He developed a strategy for Cherokee national survival by settling people with dual Cherokee-British citizenship on his nation's perimeters to bar trespassers and act as cultural intermediaries. Attakullakulla was the primary negotiator of the Transylvania Purchase (1775), which ceded large portions of Cherokee territory to Tennessee and Kentucky. The treaty was later nullified by British and American governments when Attakullakulla claimed the treaty was represented to him as a lease, not a sale.

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BIBLIOGRAPHY

- Hatley, Tom. *The Dividing Path: Cherokees and South Carolinians through the Revolutionary Era*. Oxford: Oxford University Press, 1995.
- Kelly, James C. "Notable Persons in Cherokee History: Attacullaculla." *Journal of Cherokee History*, vol. 3 (Winter 1978): 2–34.

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Article 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they now pledge their honor to maintain it.

Bacon's Rebellion (1675–1677)

Bacon's Rebellion was both a frontier and a civil war that began in 1675 in colonial Virginia. In the years before, relations between Indians and colonists had been tense. Both still remembered the destructive wars between the Powhatans and the English that ended in 1646. Led by Governor William Berkeley, colonial elites looked to maintain peace. The colonists hoped that their Native allies would act as a buffer to warn them in the event of an attack from hostile Indians. Many Indian leaders had a similar outlook, as they believed their friendship with the English would deter their Native enemies.

A growing class of poor, white, unmarried men threatened to upset this delicate balance. These colonists were mainly tenant farmers who had served their time as indentured servants and now wished to own land. They saw Indians as a nuisance, and they thought Berkeley's policies prized the rights of "savages" over those of Englishmen. When settling the backcountry, they bullied Indians into selling land and allowed their livestock to feast on Native crops.

In July 1675, a dispute between a Potomac River planter and some Doeg Indians turned violent. Using this incident as a call to arms, colonists first attacked the Doegs, and then massacred a group of Susquehannocks, who had been on friendly terms with Virginia. Angered by this unprovoked attack, the Susquehannocks began to raid English settlements. Berkeley and the colonial assembly hoped to quiet this growing crisis, and in March 1676, they decided to build nine forts along the frontier. Many colonists rejected this defensive strategy and flocked to a new leader, a fiery young aristocrat named Nathaniel Bacon. Backed by an army of

discontented settlers, Bacon launched attacks on the neighboring Indian communities, targeting not only the Susquehannocks but also the Pamunkeys and Occaneechees, Virginia's allies who had no part in the original dispute.

Berkeley condemned this indiscriminate bloodshed and branded Bacon a traitor. In response, Bacon declared war on Berkeley's government. The war against Indians quickly became a war between Virginians. Men who disliked Berkeley sided with Bacon, and Bacon urged all the less influential Virginians (white freemen, white servants, and black slaves) to join him. Throughout the summer of 1676, the rebels raided the estates of the governor's supporters and continued to battle Indians. In September, Bacon invaded the capital of Jamestown and proudly paraded forty-five Pamunkey captives. Despite its early successes, the revolt fell apart after Bacon died of dysentery that October.

In May 1677, the Pamunkeys and several other tribes signed the Treaty of Middle Plantation, which was supposed to restore colonial-Indian relations to their pre-war status. But the English soon violated the treaty's terms. No longer seeing these English-allied Indians as a vital buffer, colonial leaders began to claim even greater authority over them, pressuring tribes to move onto ever-shrinking tracts of land that would become some of the first reservations. Bacon's Rebellion accelerated the trend of eroding Indian power, and revealed the deep currents of racial animosity within Virginian society.

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BIBLIOGRAPHY

Gleach, Frederic W. *Powhatan's World and Colonial Virginia: A Clash of Cultures*. Lincoln, Neb.: The University of Nebraska Press, 1997.

Morgan, Edmund S. *American Slavery, American Freedom: The Ordeal of Colonial Virginia*. New York: W. W. Norton, 1975.

Steele, Ian K. *Warpaths: Invasions of North America*. New York: Oxford University Press, 1994.

Taylor, Alan. *American Colonies: The Settling of North America*. New York: Penguin Books, 2001.

Banks, Dennis

Dennis J. Banks (1937–) cofounded and led the American Indian Movement (AIM). Banks was born on the Leech Lake reservation in Minnesota. While on probation for forgery, he violated parole and was sent to Minnesota's Stillwater State Prison in 1967. Banks spent most of his time in prison reading about the African American Civil Rights movement and Indian treaties.

Banks left prison with a determination to improve the lives of urban Indians. In July 1968 he joined with other Native Americans to form AIM. Modeled on the Black Panther movement, AIM took an aggressive approach to civil rights. It made national headlines when a number of activists, including Banks, occupied Alcatraz Island from 1969–1971. Before the 1972 presidential election, Banks led an AIM caravan—the Trail of Broken Treaties—to Washington, D.C. Banks was the primary force behind AIM's most famous action, the 1973 siege at Wounded Knee, South Dakota. The incident turned Banks into one of the most famous spokespersons for Native American rights. In 1974 Banks faced trial for his actions at Wounded Knee but the charges were dismissed. Shortly thereafter, he faced charges relating to the burning down of the Custer, South Dakota, courthouse during a protest against the judicial system. Banks fled to California and spent ten years avoiding prison under the protection of Governor Jerry Brown. During that time, he helped found the Deganawidah-Quetzalcoatl (D-Q) University, a Native-run college. In 1985 he surrendered to South Dakota authorities and spent eighteen months in prison.

In recent years, Banks has worked as an actor, writer, and entrepreneur. He continues to be a prominent spokesperson on Native issues.

See also *Alcatraz Island, Seizure of; American Indian Movement; Trail of Broken Treaties; Wounded Knee (1973), Occupation of.*

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BIBLIOGRAPHY

Banks, Dennis, and Richard Erdoes. *Ojibwa Warrior: Dennis Banks and the Rise of the American Indian Movement*. Norman, Okla.: University of Oklahoma Press, 2004.

Smith, Paul Chaat, and Robert Allen Warrior. *Like a Hurricane: The Indian Movement from Alcatraz to Wounded Knee*. New York: New Press, 1997.

Bannock War (1878)

In 1878 the Bannocks and Northern Paiutes fought a brief but bitter war against the United States. The primary causes of the war were the continued white intrusions on the Big Camas Prairie (in what is modern-day Idaho), guaranteed to the Bannocks when their reservation was established in 1867–1868; and the forced consolidation of various Indians at the Fort Hall reservation, which produced tensions between the Bannocks and the growing number of Shoshones. Friction developed between the Bannocks and Shoshones because the former regarded much of the land near Fort Hall as theirs, and because the Shoshones were more willing than the Bannocks to replace the traditional Indian lifestyle with farming.

Other factors helped bring on the conflict, including the scarceness of rations at the reservation, which compelled the Bannocks to fight rather than starve, and a skirmish between Bannocks and white poachers. Most white casualties during the fighting were settlers whose farms were attacked because the Bannocks desperately needed food. The unpopularity of certain Indian agents in the region was also a factor. Another was a spiritual revitalization phenomenon that swept the West during the 1870s. The Ghost Dance movement provided a messianic approach to the challenge of trying to preserve the Native American way of life or adapting to life within white society. The frequency with which the warriors invoked supernatural powers to assist them reflected the Ghost Dance influence. Related to the Ghost Dance was the Bannocks' growing consciousness of their "Indianness," which was moving them beyond a purely tribal identification. Indeed, the war is perhaps misnamed because the Bannocks successfully encouraged a number of Paiutes and other Indians to join them against the whites. As Shoshonean peoples, the Bannocks and Paiutes were closely related, and some authorities consider the Bannocks to be a branch of the Paiutes.

The warring Indians had several objectives. An immediate goal was to secure food, but the war also represented another protest by Native Americans against forced socialization to a white lifestyle. For their part, whites wanted the Indians to stop "roaming." Groups of armed hunters could easily be misidentified as war parties. Ultimately, however, white greed for land was a primary reason for hostility toward Indians not confined narrowly to reservations.

A number of battles and skirmishes between the Indians and troops commanded by General Oliver O. Howard occurred over a wide area that embraced several states and territories. Many of the Indian casualties were suffered at Charles' Ford, Wyoming. Because a number of those killed were women and children, the fight is sometimes considered a massacre. The army's figures for Bannocks and others killed or wounded in the war were seventy-eight and sixty-six, respectively, but the real numbers may well have been triple those cited. Forty whites were killed, and eighteen were wounded.

After the war of 1878, the Bannocks adapted to life at Fort Hall, making some accommodations to the economic system outside the reservation while controlling the extent of their assimilation to white society.

See also *Howard, O. O.*

Benjamin R. Beede

BIBLIOGRAPHY

- Blackhawk, Ned. *Violence over the Land: Indians and Empires in the Early American West*. Cambridge, Mass.: Harvard University Press, 2006.
- Brimlow, George F. *The Bannock Indian War of 1878*. Caldwell, Idaho: Caxton Printers, 1938.
- Heaton, John W. *The Shoshone-Bannocks: Culture and Commerce at Fort Hall, 1870–1940*. Lawrence, Kans.: University Press of Kansas, 2005.
- Madsen, Brigham D. *The Bannock of Idaho*. Caldwell, Idaho: Caxton Printers, 1958.
- Smoak, Gregory E. *Ghost Dances and Identity: Prophetic Religion and American Indian Ethnogenesis in the Nineteenth Century*. Berkeley: University of California Press, 2006.

Banyacya, Thomas, Sr.

Thomas Banyacya (1909–1999), a Hopi elder and spiritual leader, was born into the Fox, Coyote, and Wolf Clan on his mother's side and the Corn and the Water clans on his father's side. It was from his father's lineage that he received his name, Banyacya, which can be translated as "corn in the fields standing in water after the rains." As a youth Banyacya was given the Anglican name Thomas Jenkins, but later in life he reclaimed his birth name as a symbol of his commitment to the Hopi life and culture.

In the 1940s Banyacya spent seven years in prison for refusing to register for the draft. He was deeply involved with protests against the Peabody Coal Company, which in 1968 carried out ecologically destructive strip mining on the Hopi sacred lands. While some tribal members saw this as an economic opportunity for the tribe, Banyacya saw it, and other forms of mining, as an assault on Mother Earth. He warned

Hopi leaders that signing the contract with Peabody Mining Company would bring severe punishment from the Creator including drought, disease, earthquakes, and ultimately the end of the Hopi Fourth World. He was also noted for leading opposition to uranium mining on Native lands.

Banyacya appeared before a meeting of the United Nations in 1992 and warned world leaders to stop their destruction of the earth and of the indigenous peoples, claiming that natural disasters would result if they did not. He predicted that the Great Spirit would begin its retaliation in 1997. Late in his life Banyacya drafted the Hopi Declaration of Peace that ends with the statement, "The True Hopi People declare that Hopi power be a force which will bring about world change" (Banyacya, *Hopi Prophecies and Predictions for the New Age*, 1989).

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BIBLIOGRAPHY

- Banyacya, Thomas. *Hopi Prophecies and Predictions for the New Age*. Audio Cassette. Virginia Beach, Va.: A.R.E. Press, 1989.
- Clemmer, Richard O. " 'Then Will You Rise and Strike My Head from My Neck': Hopi Prophecy and the Discourse of Empowerment." *American Indian Quarterly*, vol. 19 (Winter 1995): 31–73.

Beatty, Willard W.

Willard Walcott Beatty (1891–1961) was appointed director of education for the Office of Indian Education in 1936 and served until 1952. He supported the child-centered and scientific approach to education espoused by the Progressive Education movement. Beatty also became the driving force in the education programs of what was referred to as the Indian New Deal, a progressive change in federal policy towards Indians brought about by Commissioner of Indian Affairs John Collier. Beatty asked Indian educators to be knowledgeable and respectful of their students' tribal backgrounds and to make Indian education more culturally sensitive.

Beatty served as president of the Progressive Education Association from 1933 to 1937. In 1936 he began a fortnightly bulletin, *Indian Education*, to disseminate his policies and educational methods to Indian teachers of the Office of Indian Education. The change that Beatty and Collier advocated from the assimilationist goals of the allotment period is shown in the 1938 introduction to the Civil Service Examination for positions in the Indian School Service. It noted that the "primary objective" was "to give students an understanding and appreciation of their tribal lore, art, music, and community organization." In his memoirs,

Collier noted that he and Beatty “intended that school life become bilingual, and that the schools should serve adult and child alike” (Willard Beatty, *Education for Cultural Change*, 1951). Beatty supported the phasing out of Indian boarding schools and the development of culturally sensitive day schools that were community centers.

Beatty resigned in 1952 as federal policy reverted to assimilating Indians and terminating their reservations. He later served as a deputy director of education for the United Nations Educational, Scientific, and Cultural Organization (UNESCO) and associate program director for Save the Children.

See also Collier, John; *Education: Boarding Schools; Indian New Deal*.

Jon Reyhner

BIBLIOGRAPHY

- Beatty, Willard. *Education for Cultural Change*. Washington, D.C.: U.S. Department of the Interior, Bureau of Indian Affairs, 1951.
- Szasz, Margaret Connell. *Education and the American Indian: The Road to Self-Determination since 1928*. 3rd ed. Albuquerque, N.Mex.: University of New Mexico Press, 1999.

Beaver Wars (1639–1701)

The term “Beaver Wars” has been employed by scholars to describe seventeenth-century conflicts between the Five Nations of the Iroquois League and their neighbors around the Great Lakes and in the Ohio Country. Since hunters had depleted the beaver stocks in their home territory by the late 1630s, Iroquois warriors sought to control the fur trade through the conquest or destruction of their rivals around lakes Ontario and Erie, and, later, as far away as present-day Illinois. By 1701 the Five Nations had exhausted their resources and sued their many enemies for peace.

The Beaver Wars began with Iroquois victories over the Wenros in 1639 and the Petuns in 1643 that extended Iroquois dominion as far as Lake Erie. Iroquois winter raids in 1648–1649 north of Lake Ontario resulted in the dispersal of the once-mighty Hurons. In 1653–1654, Iroquois appetite for furs and European trade goods led to the destruction of the Erie Nation.

Their northern and western enemies defeated, the Iroquois next attacked the Susquehannocks, ancient enemies that resided in the Susquehanna River basin. The Susquehannock war stemmed from internal Iroquois politics. The four western nations of the Iroquois League—

Oneidas, Onondagas, Cayugas, and Senecas—were jealous of the fifth league member, the Mohawks, due to the Mohawks’ easy access to Dutch traders at Fort Orange. Since the league prohibited wars against member nations, the western Iroquois had to find furs elsewhere. The Susquehannocks, armed by Dutch traders on the Delaware River and by the colonial government of Maryland, were a logical target. Although the well-armed Susquehannocks held the upper hand throughout much of the war, they succumbed to the Iroquois after twenty years of brutal conflict.

By the 1680s Iroquois appetite for trade goods forced them farther west in search of furs. Iroquois warriors drove Algonquian groups such as the Miamis and Illinois into the upper Great Lakes region, took their furs, and captured thousands of prisoners over the course of a decade. These Five Nations western triumphs were short lived, however. At the height of the Iroquois’ military success, their western Algonquian foes allied themselves with the French. In time, French soldiers and their newly emboldened native allies put an end to the Iroquois’ bloody western raids and took the Beaver Wars to the heart of the Iroquois’ lands. French and Algonquian warriors burned Schenectady (1690) and Onondaga (1696) during King William’s War, the imperial war between England and France into which the Iroquois–French war merged. Although the war between the European belligerents ended in 1697, French and Indian raids against the Iroquois continued. By the onset of the eighteenth century, exhausted by sixty years of continuous warfare, Iroquois chiefs sought peace.

In 1701 Onondaga speaker Teganissorens negotiated peace with France and its Indian allies in Montreal. Simultaneously, another Onondaga-led delegation convened a peace council with New York authorities at Albany. At both treaty councils, Iroquois diplomats declared the league’s neutrality in future imperial conflicts between England and France and abandoned their efforts to dominate western hunting grounds. While the 1701 peace humbled the Iroquois, it also preserved the league’s vital role in imperial politics.

The Beaver Wars impacted French and British imperial policies well into the eighteenth century. For the French, the end of the Beaver Wars permitted them to strengthen the Indian fur trade alliances that sustained the colonial economy in the Great Lakes region and provided a defensive buffer against British expansion. British colonial governors used their historic alliance with the Iroquois League, the Covenant Chain, to claim for the Crown millions of acres of western land that their Five Nations allies had won from

rival Great Lakes region tribes. The league had been weakened militarily, socially, and culturally by the Beaver Wars, but as the struggle for empire between France and Britain continued, the Iroquois could still tip the balance of power by allying itself with one empire or the other.

Until recently, economic interpretations of the Beaver Wars dominated most discussion on the Iroquois' seveneenth-century wars. George T. Hunt, for instance, argued that the Iroquois wanted access to the firearms and other European goods that their enemies used to great advantage against them. Francis Jennings placed the Beaver Wars into a larger imperial context when he argued that the British used their alliance with the Iroquois, as well as the Indians' vast territorial acquisitions, to support their own claims to native land. Daniel K. Richter attributed some economic motives to the Iroquois, but his primary belief was that the Iroquois fought "mourning wars," conflicts intended to replenish the depleted population of their towns through prisoner adoption. José Antônio Brandão, unlike Richter, discarded economic considerations altogether when linking the Iroquois' wars with major epidemics among the Five Nations that forced them to capture and adopt prisoners to increase their population. Interpretations of the Beaver Wars continued to be revised to add more weight to indigenous motivations for action into the early twenty-first century.

See also *Covenant Chain; Fur Trade.*

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BIBLIOGRAPHY

- Brandão, José Antônio. "Your fyre shall burn no more": Iroquois Policy toward New France and Its Native Allies to 1701. Lincoln, Neb.: University of Nebraska Press, 1997.
- Fenton, William N. *The Great Law and the Longhouse: A Political History of the Iroquois Confederacy*. Norman, Okla.: University of Oklahoma Press, 1998.
- Hunt, George T. *The Wars of the Iroquois: A Study in Intertribal Trade Relations*. Madison, Wis.: University of Wisconsin Press, 1940.
- Jennings, Francis. *The Ambiguous Iroquois Empire: The Covenant Chain Confederation of Indian Tribes with English Colonies from Its Beginnings to the Lancaster Treaty of 1744*. New York: W. W. Norton, 1984.
- Richter, Daniel K. *The Ordeal of the Longhouse: The Peoples of the Iroquois League in the Era of European Colonization*. Chapel Hill: University of North Carolina Press, 1992.
- Trelease, Allen W. *Indian Affairs in Colonial New York: The Seventeenth Century*. Ithaca, N.Y.: Cornell University Press, 1960.

Beeson, John

During the Indian-settler conflicts in the Rogue River Valley of Oregon in the 1850s, one settler published a stir-

ring defense of Native rights. John Beeson, an English-born farmer and Methodist humanitarian, moved from Illinois to southern Oregon in 1853, drawn there by the prospect of improving his circumstances. He arrived in the region during a gold rush, which attracted hundreds of fortune seekers who often violated Indian lands, and threatened and killed resistant Natives. Violent conflict brought political pressure to remove Indians, which resulted in a treaty in 1853 and the establishment of a local reservation. More violence followed, as miners and settlers demanded the complete removal or extermination of the Indians in the Rogue River Valley. An especially terrible attack on women and children in 1856 stimulated Beeson, who had been an active abolitionist in Illinois and had argued publicly in Oregon for humane treatment of Native people, to write several strong letters to the *Oregon Statesman*, the *True Californian*, and the *New York Tribune* charging that volunteer militia members had committed genocidal acts on Rogue River Valley Indian camps. National journals were uninterested in his reports.

Beeson's advocacy for Indians made him an outcast among Oregon settlers, forcing him to leave the region. Outraged at the fate of Rogue River Valley Indians and determined to tell the outside world, Beeson wrote and self-published *A Plea for the Indians: with Facts and Features of the Late War in Oregon* in New York in 1857. Beeson's 143-page book argued for humane treatment of Native people and for wholesale reform of federal Indian policies, but it had little effect on conditions in Oregon or U.S.-Indian affairs. Beeson continued to argue for Indian rights as a member of the Indian Aid Association in Philadelphia. He returned to Oregon in the 1870s and died there in 1889.

See also *Gold and Gold Rushes; Rogue River War (1855–1856).*

William L. Lang

BIBLIOGRAPHY

- Beckham, Stephen Dow, ed. *Oregon Indians: Voices from Two Centuries*. Corvallis, Ore.: Oregon State University Press, 2006.
- Norwood, Frederick A. "Two Contrasting Views of the Indians: Methodist Involvement in the Indian Troubles in Oregon and Washington." *Church History*, vol. 49 (June 1980): 178–187.
- Schwartz, E. A. *The Rogue River Indian War and its Aftermath, 1850–1980*. Norman, Okla.: University of Oklahoma Press, 1997.

Bellecourt, Clyde

Clyde Bellecourt (1936–) is a cofounder of the American Indian Movement (AIM), which developed into an organization committed to reforming relations between Indians

and the federal government. Born May 8, 1936, on the White Earth Indian reservation in Minnesota, Bellecourt is a member of the Anishinabe Ojibwe (Chippewa) tribe. His name translates into "Thunder before the Storm." In 1968, Bellecourt formed and became national director of AIM. Two years later, he founded the Legal Rights Center in Minneapolis to provide legal aid to the indigent. In 1972, he founded the Heart of the Earth Survival School, a charter school for Native American children that teaches Indian culture as well as traditional subjects. In 1973, Bellecourt participated for seventy-one days in an occupation of the Pine Ridge reservation town of Wounded Knee, South Dakota, in a standoff with federal authorities. In 1975 he founded the Federation of Native American Controlled Survival Schools. Four years later, he formed the American Indian Opportunities Industrialization Center (OIC), the first Indian OIC, which offers job training and technical education.

In 1984, an AIM tribunal in California condemned Bellecourt for crimes that included drug use and trafficking. In 1986 he went to federal prison for twenty-two months after pleading guilty to selling LSD to undercover agents. Despite these troubles, he continued his activism. During the 1991 World Series between the Minnesota Twins and the Atlanta Braves, Bellecourt led demonstrations protesting the use of Indian nicknames by sports teams, a practice he has since continued.

In 2000, activist Russell Means, perhaps the best-known AIM member, charged that Bellecourt and his brother, Vernon, had engineered the execution-style slaying of AIM member Anna Mae Pictou-Aquash in 1975 at Pine Ridge. The Bellecourts denied the allegations. The Bellecourts founded the National American Indian Movement in 2003, while Means is affiliated with the rival International Confederation of Autonomous AIM. Both groups claim to be the true AIM.

See also *American Indian Movement (AIM)*; *Bellecourt, Vernon*; *Means, Russell*.

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BIBLIOGRAPHY

- Deloria, Vine, Jr. *Team Spirits: The Native American Mascots Controversy*. Lincoln, Neb.: University of Nebraska Press, 2001.
- Smith, Paul Chaat, and Robert Allen Warrior. *Like a Hurricane: The Indian Movement from Alcatraz to Wounded Knee*. New York: New Press, 1997.

Bellecourt, Vernon

Vernon Bellecourt (1931–2007), a White Earth Anishinabe Ojibwe, helped lead the American Indian Movement (AIM). A prosperous realtor, Bellecourt admired the actions of his brother, Clyde, on behalf of Indians and founded an AIM chapter in Denver. The group addressed Indian sovereignty, respect for treaties, protection for Indian religious freedom, and reorganization of the Bureau of Indian Affairs (BIA). Bellecourt garnered public attention as the spokesperson for AIM's 1972 Trail of Broken Treaties protest caravan to Washington, D.C., which culminated in the occupation of the BIA offices. He briefly joined in the 1973 occupation of Wounded Knee, during which time he raised funds for AIM and again served as a spokesperson.

In November 1994 the Denver chapter of AIM charged Bellecourt with sabotaging the organization's principles and activities by allegedly working with adversaries of Native Americans. The charges stemmed from his support for the federal Act for the Protection of Indian Arts and Crafts (1990) and the Native American Free Exercise of Religion Act (1993), as well as a list of other grievances. Critics of these acts charged they were attempts to empower the federal government to define who was an Indian and to set the conditions under which Native American spirituality could be practiced. The Denver chapter of AIM banished him for life, but he remained a member of the AIM Grand Governing Council.

As chair of the National Coalition on Racism in Sport and Media, Bellecourt protested against the use of Native American mascots and logos by sports teams. He viewed such characters as Chief Wahoo of the Cleveland Indians baseball team as attempts to demean and trivialize Native American culture. Bellecourt died on October 13, 2007, in Minneapolis, Minnesota.

See also *American Indian Movement (AIM)*; *Bellecourt, Clyde*; *Trail of Broken Treaties*; *Wounded Knee (1973)*, *Occupation of*.

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BIBLIOGRAPHY

- Deloria, Vine, Jr.. *Team Spirits: The Native American Mascots Controversy*. Lincoln, Neb.: University of Nebraska Press, 2001.
- Smith, Paul Chaat, and Robert Allen Warrior. *Like a Hurricane: The Indian Movement from Alcatraz to Wounded Knee*. New York: New Press, 1997.

Bennett, Robert L.

Robert L. Bennett (1912–2002), an Oneida Indian and commissioner of Indian affairs from 1966–1969, was the first American Indian to head the Bureau of Indian Affairs (BIA) since the late 1800s. He grew up in Wisconsin, began working for the BIA in 1933, and earned a law degree in 1941. During the 1950s, Bennett helped to block Senator Arthur Watkins' attempt to terminate the Ute Indian tribe. Along with Francis McKinley, a member of the Ute tribal council, Bennett created and carried out a plan whereby only mixed-blood Utes were terminated.

When he was appointed commissioner in 1966, Bennett was serving as a BIA area director. He was known for opposing government paternalism and promoting economic development on reservations. Some wondered if Bennett, a life-long BIA bureaucrat, could provide fresh and creative leadership. Congress confirmed him with the expectation that he would cooperate with its termination program, which sought to assimilate Indians into mainstream American society. Bennett worked instead to strengthen tribal governments and to convert the BIA into a professional service agency.

In 1966 Bennett ruled that the Navajo tribe could not develop lands that the Hopi tribe also claimed. This "Bennett Freeze" was not lifted until 2006. Bennett temporarily lost some credibility with the National Congress of American Indians in 1967 when he promoted the Lyndon B. Johnson administration's Omnibus Bill for Indian economic development. He made Indian education a priority and worked with the National Indian Youth Council. Bennett resigned in 1969, shortly after Johnson left office. From 1970 to 1975, he served as director of the American Indian Law Center at the University of New Mexico.

See also *Bureau of Indian Affairs; National Congress of American Indians; National Indian Youth Council; Termination and Restoration; Watkins, Arthur.*

Sterling Fluharty

BIBLIOGRAPHY

- Castile, George Pierre. *To Show Heart: Native American Self-Determination and Federal Indian Policy, 1960–1975*. Tucson, Ariz.: University of Arizona Press, 1998.
- Clarkin, Thomas. *Federal Indian Policy in the Kennedy and Johnson Administrations, 1961–1969*. Albuquerque, N.Mex.: University of New Mexico Press, 2001.
- Metcalf, R. Warren. *Termination's Legacy: The Discarded Indians of Utah*. Lincoln, Neb.: University of Nebraska Press, 2002.

Bent, Charles

Charles Bent (1799–1847) was born in Virginia, but shortly after his birth his family moved to St. Louis, Missouri. In 1822 he went to work for the Missouri Fur Company, becoming a partner by 1825. While working for this company, he gained experience in dealing with Indians and served for a time as a subagent for the Iowa tribe. In 1828 Charles and his brother William joined with Ceran St. Vrain in a new fur company to trade in the southwest. In 1833 the company, known as Bent, St. Vrain and Company, built Bent's Fort on the north bank of the Colorado River near present-day La Junta, Colorado, on the mountain branch of the Santa Fe Trail. Because of their good reputation for dealing fairly with the Indians, the Bent brothers were given much credit for maintaining peace along the trail. In 1835 Charles Bent moved to the Taos area in present-day New Mexico and became involved in land speculation. When the United States took control of New Mexico during the United States–Mexico War (1846–1848), Bent became the territorial governor. Because of tensions with the Indians in the area, he urged the U.S. government to send agents to the various tribes and to build forts there as soon as possible, but this was not done for several years. In early 1847, dissident Mexicans and some Pueblo Indians in the territory rose in revolt against U.S. control, and in the resultant fighting, Charles Bent was killed on January 19, 1847.

Mark S. Joy

BIBLIOGRAPHY

- Lavender, David S. *Bent's Fort*. 1954. Reprint, Lincoln, Neb.: University of Nebraska Press, 1972.
- Trennert, Robert A. "Bent, Charles, 1799–1847." In *Handbook of North American Indians, Vol. 4, History of Indian-White Relations*, edited by William C. Sturtevant, 622. Washington, D.C.: Smithsonian Institution, 1988.

Big Elk (Ong-pa-ton-ga)

Big Elk (Ong-pa-ton-ga) was born in 1765 in the principal village of the Omaha (U'maha) Nation, located between present-day Omaha, Nebraska, and Sioux City, Iowa. As a young man, Big Elk joined other Omahas in battle against their traditional enemy, the Pawnees. He earned a reputation as a brave and skilled warrior, and also as a fair man in decision making.

Big Elk succeeded Black Bird as the principal chief of the Omahas in 1820, a critical time for the tribe as an increasing number of American settlers migrated across their traditional lands. In 1821 and 1837, Big Elk traveled to Washington, D.C., to negotiate treaties between the Omahas and the American government. His oratorical skill was described as spellbinding. On one such visit to Washington he was quoted as saying, "Do not grieve. Misfortunes will happen to the wisest and best of men. Death will come, always out of season. It is the command of the Great Spirit, and all nations and people must obey. What is past and what cannot be prevented should not be grieved for . . . Misfortunes do not flourish particularly in our lives—they grow everywhere" (Herman J. Viola, *Diplomats in Buckskins: A History of Indian Delegations in Washington City*, 1995).

In 1820, the superintendent of Indian affairs, Thomas L. McKenney, commissioned accomplished portraitist Charles Bird King to paint Native American dignitaries who came to Washington to confer with government officials. King painted Big Elk's portrait during his first visit in 1821. That now-famous painting is on display in the Smithsonian American Art Museum.

Troy R. Johnson

BIBLIOGRAPHY

- McKenney, Thomas, and James Hall. *The History of the Indian Tribes of North America*. Philadelphia, Pa.: D. Rice and A. N. Hart, 1855.
- Viola, Herman J. *Diplomats in Buckskins: A History of Indian Delegations in Washington City*. Norman, Okla.: University of Oklahoma Press, 1995.
- Wilson, Dorothy Clarke. *Bright Eyes: The Story of Suzette LaFlesche, an Omaha Indian*. New York: McGraw-Hill, 1974.

Big Foot (Si Tanka)

Big Foot (Si Tanka) (c. 1825–1890) was a war chief among the Minniconjou Lakotas (Sioux) at the height of the Plains Indian wars. He was a great hunter, a skilled horseman, and, in his youth, a fierce warrior. He was also known for his skill as a political and diplomatic representative for his people in negotiations with other Indian nations and with the U.S. government.

Big Foot became tribal chief upon the death of his father, Lone Horn, in 1874. At this time the U.S. government was forcefully negotiating treaties with Indian nations that sought to reduce their traditional hunting grounds and restrict them to reservations. The Natives resisted, and Indian prophets created a spiritual revitalization movement that became known as the Ghost Dance religion. Big Foot served

as one of the movement's leaders. The U.S. government became alarmed that the Ghost Dance might signal the beginning of a new round of Indian warfare.

In December 1890 Big Foot led a group of followers to the Pine Ridge reservation to show his peaceful intentions. On December 28, 1890, an army detachment intercepted the group and instructed them to camp overnight at Wounded Knee Creek in South Dakota. The following morning Big Foot and some 150 to 200 of his followers, who had been largely disarmed, were massacred by the reconstituted 7th U.S. Cavalry. Big Foot was suffering from a serious illness, perhaps pneumonia, and was unable to fight. He was among the first to be killed.

See also *Wounded Knee Massacre (1890)*.

Troy R. Johnson

BIBLIOGRAPHY

- U.S. Department of California. *Report of Operations Relative to the Sioux Indians in 1890 and 1891 in the Department of Dakota*. Washington, D.C.: Government Printing Office, 1891.
- Utey, Robert M. *The Last Days of the Sioux Nation*. New Haven, Conn.: Yale University Press, 1963.

Bill of Rights

The first ten amendments to the Constitution of the United States comprise the Bill of Rights, which was ratified in 1791. The first eight of these amendments establish protections for individual rights, such as freedom of speech, freedom of the press, freedom of religion, due process of law, and protection from unreasonable search and seizure. In *Barron v. Mayor & City Council of Baltimore* (1833), the U.S. Supreme Court ruled that the Bill of Rights applied only to the federal government, and not to the states. Beginning in 1897, however, the Court held in a series of cases that most, but not all, of the protections of the Bill of Rights also applied to the states because they had been incorporated by the due process clause of the Fourteenth Amendment, which was ratified in 1868. As of mid-2008, there were only five provisions of the Bill of Rights that have not been incorporated and thus do not apply to the states: the right to bear arms, the right not to have soldiers quartered in homes, the right to a grand jury in criminal cases, the right to a jury trial in certain civil cases, and the prohibition of excessive fines.

Indians who maintained tribal relations were not citizens under the original Constitution or the Fourteenth Amendment. To the extent that constitutional protections were

available to citizens, those protections did not extend to tribal Indians until the Indian Citizenship Act of 1924 made all Indians citizens of the United States.

Nonetheless, the Bill of Rights generally protects “persons” and not just U.S. citizens. Both the federal government and the states are therefore bound by the Bill of Rights in their dealings with Indians. During much of the history of U.S.-tribal relations, however, federal courts allowed the government to ignore the protections of the Bill of Rights. For example, the Kiowa Lone Wolf claimed that the allotment of his reservation and the sale of the surplus lands were in violation of the Fifth Amendment. Regardless, the U.S. Supreme Court held in *Lone Wolf v. Hitchcock* (1903) that the federal government had plenary (complete) power to do as it pleased with Indian property. Once the allotment period ended in 1934, however, federal courts began to hold the federal government to constitutional standards. In *United States v. Creek Nation* (1935), the Supreme Court ruled that the United States could not take lands to which Indian tribes held recognized title without the payment of just compensation. And in *United States v. Sioux Nation* (1980), the Supreme Court rejected the *Lone Wolf* decision that congressional actions were not subject to judicial review.

Although federal and state governments are bound by the Bill of Rights, tribal governments are not. Concerns arose in the 1960s that tribal governments and tribal courts were not adequately protecting the rights of Indian citizens. Senator Sam Ervin (D-N.C.) spent much of the 1960s pushing passage of the Indian Civil Rights Act (ICRA). His initial proposal to make tribal governments subject to all constitutional constraints was rejected in light of concerns over preserving traditional tribal governmental structures. As ultimately enacted in 1968, the ICRA guarantees that persons subject to tribal governmental authority enjoy many of the same rights as those in the Bill of Rights. The ICRA, however, does not make the Bill of Rights itself applicable to tribal governments.

See also *Constitution, United States; Indian Citizenship Act of 1924; Indian Civil Rights Act of 1968; Religious Freedom.*

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BIBLIOGRAPHY

- Chemerinsky, Erwin. *Constitutional Law: Principles and Policies*, 3rd ed. Frederick, Md.: Aspen Publications, 2006.
- Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.

Black Elk

Black Elk (c. 1863–1950) was an Oglala Sioux spiritual leader. At age nine he received a vision in which Thunderbeings, sacred Sioux spirits, told him he would have great powers that would enable him to cure people and to help them in battle. This vision, and others throughout his life, set him apart as a holy man and a healer.

Black Elk participated in the Battle of Little Bighorn (1876) and, one year later, witnessed the murder of Lakota leader Crazy Horse. In 1886 he joined Buffalo Bill's Wild West Show and traveled Europe. He returned to live at the Pine Ridge reservation in South Dakota, where his reputation as a powerful holy man grew. On December 29, 1890, he witnessed the massacre at Wounded Knee when soldiers opened fire on a group of Indians who were practicing the Ghost Dance.

After converting to Catholicism in 1904, Black Elk adapted his traditional practices to the changing cultural realities of reservation life in the twentieth century. Even so, he maintained the qualities of a Lakota holy man: charity, kindness, generosity, and the belief that sacredness in all of its forms was the most profound expression of reality.

In 1930 he described his early life to John Neihardt, who retold his story in the book *Black Elk Speaks*. Its popularity helped lay the groundwork for a change in the perceptions of Indians in popular culture and law. In 1947 Black Elk was interviewed by Joseph Epes Brown, whose book *The Sacred Pipe* recorded the holy man's teachings about the traditional Lakota religion.

Despite the difficulty of coping with the dramatic changes that took place in his lifetime, Black Elk served as an example of how many Native Americans were able to live meaningful and profound lives.

See also *Wounded Knee Massacre (1890).*

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BIBLIOGRAPHY

- Brown, Joseph Epes. *The Sacred Pipe, Black Elk's Account of the Seven Rites of the Oglala Sioux*. Norman: University of Oklahoma Press, 1953.
- Neihardt, John G. *Black Elk Speaks, Being the Life Story of a Holy Man of the Oglala Sioux*. William Morrow & Co. New York, 1932.
- Steltenkamp, Michael F. *Black Elk, Holy Man of the Oglala*. Norman: University of Oklahoma Press, 1993.

Black Hawk (Makataimeshekiakiak)

Black Hawk (Makataimeshekiakiak) (1763–1838) was a Sauk warrior and anti-American spokesman born in northwestern Illinois. He grew to adulthood as Americans poured into the upper Mississippi River Valley. During his lifetime he witnessed the Sauk economy weaken, village leaders sign away tribal lands, and government officials interfere with everyday Indian life. In an effort to preserve Sauk traditions, he led his supporters into the disastrous war named after him.

During the War of 1812, Black Hawk led hundreds of his tribe to fight alongside the British against the Americans. During Black Hawk's absence, tribal leaders chose Keokuk, a younger man, to defend the community of Saukenuk. This led to bitter disagreements between the two as Keokuk agreed to negotiate with the Americans, while Black Hawk rejected any accommodation. In 1831 the United States forced the Sauks and Mesquakies west beyond the Mississippi River, but in April 1832 Black Hawk led 1,500 to 2,000 Indians back into Illinois. This set off the war that bears his name. When the fighting ended, only about three hundred Indians had survived. Black Hawk surrendered, and after a year in federal custody American officials released him and the other leaders of his revolt. In 1838 Black Hawk died in Iowa. In 1833 an Illinois newsman published his remarks as *Black Hawk's Autobiography*. While not entirely Black Hawk's words, it is one of only a few collections of recorded statements from an Indian who lived in the early nineteenth century.

See also *Black Hawk War (1832)*; *Keokuk*.

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BIBLIOGRAPHY

- Hagan, William T. *The Sac and Fox Indians*. Norman, Okla.: University of Oklahoma Press, 1958.
- Nichols, Roger L. *Black Hawk and the Warrior's Path*. Arlington Heights, Ill.: Harlan Davidson, 1992.
- , ed. *Black Hawk's Autobiography*. Ames, Iowa: Iowa State University Press, 1999.

Black Hawk War (1832)

The 1832 Black Hawk War was the first of several frontier conflicts between the United States and tribal people resulting from President Andrew Jackson's 1830 Indian Removal Policy. It pitted elements of the Sauk, Mesquakie, Potawatomi, and Ho-Chunk (Winnebago) tribes in Illinois

and present-day Wisconsin against U.S. Army forces and Illinois militia troops.

The conflict resulted from nearly thirty years of misunderstanding and tensions between tribal people in the upper Mississippi Valley and intruding settlers and their government. Sauk relations with the United States began badly when in 1804 American officials tried to prevent the Sauk from raiding their traditional enemies, the Osage tribe. That same year William Henry Harrison duped a few tribal leaders into signing a treaty that surrendered all of their land east of the Mississippi River. This agreement brought confusion later because it allowed the Sauks to live on their land until 1829 when the government sold it. Throughout that time Indian leaders rejected or tried to ignore the treaty.

These early strained relations did not improve as American settlers arrived in Illinois Territory. So when the War of 1812 broke out, British officers had little difficulty in recruiting Indians to join them in fighting against the Americans. Black Hawk, a respected Sauk war leader, gathered and led Indian warriors from Illinois and Iowa to campaign. During his absence American militiamen threatened Saukenuk, the largest Sauk community at the time. Frightened village leaders chose a Sauk named Keokuk to defend their town. Their action began an often bitter competition between Black Hawk and Keokuk for preeminence and led to clear divisions within the tribe.

At the end of the War of 1812, American negotiators forced the tribes of the upper Mississippi Valley to accept treaties of peace and friendship. Gradually federal officials realized that Keokuk spoke for the moderates in both tribes, so they began to support him in his struggle with Black Hawk for tribal influence. During the 1820s the efforts of these two men to direct tribal affairs intensified and created deep divisions among the Sauks and Mesquakies.

Expanded settlement in Illinois increased frontier tension and violence. In 1825 American officials held a multiracial peace council in Prairie du Chien, Wisconsin. There tribal leaders signed a treaty promising to end retaliatory raids and accept U.S. mediation of intertribal disputes. Sauk traditionalists such as Black Hawk denounced this as an abandonment of tribal culture, focusing their anger on Keokuk. Two years later Illinois governor Ninian Edwards demanded that the federal government move the Indians out of that state. Soon after settlers began moving into Saukenuk while the Indians traveled west of the Mississippi on their winter hunt.

Intertribal raiding among the area tribes kept tension high. When the Menominees and Dakotas (Sioux) mur-



The Sauk and Fox Indians, led by Black Hawk, were defeated by General Henry Atkinson's forces in 1832. The Black Hawk War was the first, but not last, conflict caused by President Andrew Jackson's Indian removal policy.

dered a delegation of unarmed Mesquakie leaders seeking peace, American officials intervened to prevent retaliation. This further angered families of the victims. Gradually anti-American Sauks and Mesquakies formed a vocal minority opposition group. They rejected the 1804 treaty of cession, objected to the possible sale of lead lands in Iowa, and promised to return to Saukenuk each year. By this time American officials had begun calling them the British Band because of their War of 1812 actions against the United States.

When the Sauks tried to reoccupy their village in 1831, Illinois authorities called out the militia and threatened to exterminate the villagers. General Edmund P. Gaines intervened with U.S. troops. He forced Black Hawk and the other leaders to agree to stay west of the Mississippi and to accept Keokuk's leadership. This only postponed trouble. During a miserable winter in Iowa, Black Hawk received an invitation from the Winnebago prophet, White Cloud (Wabokieshiek), to return to Illinois and settle at the prophet's village on the Rock River. That same winter Napope, one of the young Sauk chiefs, visited British officers at Malden in Canada. On his return he lied, claiming that the British had promised military support if a war began. This news prompted leaders of the British Band to return to Illinois the next spring.

In early April 1832 the Indians moved back into Illinois. At that point the British Band included less than five hundred armed men accompanied by elderly people, women, and children for perhaps a total of 1,800 people. They moved

up the Rock River Valley expecting a welcome from Potawatomi and Ho-Chunk villages there. On April 16 and again on April 24 General Henry Atkinson, who commanded American troops in the region, sent emissaries who urged Black Hawk to lead the Indians back to Iowa. Still expecting aid from tribes in the area, the leaders rejected this advice, but within a few days they learned that other Indians had no intention of helping them.

On May 14, before the British Band leaders could act, Illinois militiamen under Major Isaiah Stillman attacked. The defenders terrorized the militiamen who fled. This incident ended efforts to seek a peaceful solution, and Atkinson led U.S. troops and militia units after the Indians, who fled north into Wisconsin. Mostly the war that followed consisted of Indian raids and unsuccessful pursuits by the American force. By July 1832, with many of its members nearing starvation, the British Band headed west toward the Mississippi. On July 19 the militia found their trail, and two days later the volunteers overtook the fugitives at the Wisconsin River, attacking as the Indians fled across it. That set off a race toward the Mississippi River, where on August 2, 1832, Atkinson's force overtook and nearly destroyed the British Band. When the fighting ended, no more than three hundred of the Indians had survived. The government pushed all but a few leaders into Iowa. Black Hawk, the Winnebago prophet, and several other chiefs spent the next year in federal custody before being returned to Iowa. In late summer 1832, General Winfield Scott forced Sauk and Mesquakie leaders to sign a treaty surrendering a fifty-mile-wide strip of tribal lands in

Iowa. This was the first of several cessions which eventually forced the tribes out of Iowa.

See also *Black Hawk*; *Keokuk*.

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BIBLIOGRAPHY

- Hagan, William T. *The Sac and Fox Indians*. Norman, Okla.: University of Oklahoma Press, 1958.
- Jackson, Donald, ed. *Black Hawk: An Autobiography*. Urbana, Ill.: University of Illinois Press, 1964.
- Nichols, Roger L. *General Henry Atkinson: A Western Military Career*. Norman, Okla.: University of Oklahoma Press, 1965.
- . *Black Hawk and the Warrior's Path*. Arlington Heights, Ill.: Harlan Davidson, 1992.
- Prucha, Francis Paul. *The Sword of the Republic: The United States Army on the Frontier, 1783–1846*. New York: Macmillan Publishing Co., 1977.

Black Hills

The Black Hills occupy the southwest corner of South Dakota and sprawl into neighboring Wyoming. They are sacred to many tribes, including the Cheyennes, Arapahos, Kiowas, Kiowa-Arapahos, and Lakotas. The Cheyennes and Arapahos, who are closely connected, hold several places within the Black Hills to be sacred, including Bear Butte, the Great Race Track, and Devils Tower. Indeed, Bear Butte is one of the most sacred places for the Cheyennes. Bear Butte and Devils Tower are also sacred to the Kiowas.

The Sioux, and particularly the Lakota (one of the three linguistic subdivisions of the Sioux), also have strong religious connections to a number of places within the Black Hills. According to Sioux creation stories, their people emerged from Wind Cave in the Black Hills. Thus the Black Hills, or Paha Sapa in the Lakota language, are central not only to their religion, but also to their very existence as a people. The Lakotas refer to Paha Sapa as “The Heart of Everything That Is,” and the relationship between them is a mutual one. They protect one another, placing responsibilities on each other and granting benefits.

The Black Hills are also at the core of an almost 150-year-long dispute between the people of the Sioux Nation and the people of the United States. Archaeological records document that the Sioux occupied the Black Hills by the 1770s, after driving many other tribes out of the area. The westward expansion of the United States in the nineteenth century resulted in conflicts between settlers and Indians, including the Sioux. Those conflicts were worsened by mis-

understandings between the two groups, particularly over patterns of land ownership. The settlers kept spreading westward into what they saw as unsettled territory, and the Indians were continually pushed out of what they viewed as their ancestral lands.

In 1851 the United States and several Indian tribes entered into the Treaty of Fort Laramie, which specifically reserved the Black Hills for the Sioux, as the Sioux refused to cede the land to the United States. Shortly after the treaty, gold was discovered in Montana and gold seekers carved out an illegal shortcut through Lakota territory. The resulting conflicts erupted into the Powder River War, also known as Red Cloud's War. The Sioux won, forcing the United States to surrender and negotiate what became known as the second Treaty of Fort Laramie (1868). Again, the treaty reserved the Black Hills for the Great Sioux Nation. The treaty required the United States to keep trespassers out of the Black Hills and also provided that any future land cession would require the signatures of three-fourths of the tribe's adult males.

Less than a decade later, the United States was in violation of these treaty obligations. In 1874 Lt. Col. George Armstrong Custer led an expedition into the Black Hills and confirmed reports of the existence of gold. The United States sent the Allison Commission to negotiate for the Black Hills, and when those negotiations failed, the federal government began a strategy designed to force the Sioux to agree to their terms. This strategy included a decision by the president and other top governmental officials to cease enforcing the ban on white settlers in the Black Hills, attempts to starve the Sioux into submission by restricting their treaty-guaranteed hunting and fishing expeditions, and stopping food and other payments required under the terms of the 1868 treaty.

The Sioux revolted against the restrictions, and the U.S. military began a campaign to force the Sioux back to the reservations. Although the hostilities included some Indian successes, such as the Battle of Little Bighorn in which Custer was killed, the Indians were largely unsuccessful in their resistance. In 1876 Congress dispatched the Manypenny Commission to the Sioux to collect sufficient signatures to cede the Black Hills. The commission obtained the signatures of approximately 10 percent of the adult males, far short of the 75 percent required by the treaty. Despite the commission's failure, Congress passed a statute in 1877 abrogating the 1868 Treaty of Fort Laramie and stripping the Sioux of the Black Hills.

Within three years, the Sioux began seeking the return of the Black Hills. Relations between the Sioux and the United States continued to worsen, culminating in the massacre at Wounded Knee on December 29, 1890. At least 150 Sioux (some scholars place the figure much higher), mostly unarmed noncombatants, were killed by the U.S. military during the massacre. Despite this, the Sioux would not renounce their claim.

In 1920 Congress passed a statute waiving the sovereign immunity of the United States and allowing the Sioux to file a claim in the U.S. Court of Claims seeking restitution for the loss of the Black Hills. That suit was filed in 1923 and dismissed on technical grounds in 1942. The tribe tried again after Congress created the Indian Claims Commission in 1946. The purpose of the Indian Claims Commission was to investigate claims filed by Indian tribes alleging wrongful takings of land. The commission was given the ability to award monetary compensation for any taking it determined was wrongful, but was not authorized to actually return the land itself as compensation.

The Sioux Nation's lawsuit followed a long and difficult route, complicated by poor legal representation and requiring two congressional statutes to extend the timeframe for pursuing the lawsuit. In 1980 the U.S. Supreme Court upheld the judgment of the claims court, declaring that the United States had violated the 1868 Treaty of Fort Laramie when it seized the Black Hills. In the course of affirming the claims court's decision, Justice Harry Blackmun, writing for the Supreme Court, repeated the claims court's declaration that a "more ripe and rank case of dishonorable dealings will never, in all probability, be found in our history." The Court upheld the award of \$17.5 million. The award itself was insultingly small, as it included only simple, not compound, interest and it did not account for the estimated \$1 billion taken out of the Homestake Gold Mine in the Black Hills. The Court included only the value of the gold wrongfully removed by white trespassers prior to the 1877 statute, an amount estimated at \$450,000. When the 5 percent interest was added to the amount of the judgment, the total award came to \$106 million.

For the Sioux and the Lakotas, however, no amount of money could compensate for the loss of Paha Sapa. They wanted the land itself back, not what they viewed as a pay-off. The Sioux refused the money, which still rests in the U.S. Treasury earning interest. As of 2008, the amount was estimated at \$400 million and climbing. Unfortunately for the Sioux, they never had a chance of getting the land returned

through the Indian Claims Commission process. The commission was empowered only to award monetary damages, and no other viable legal avenues exist to seek the return of the land. Efforts to file suit in federal court seeking return of the land have failed, as have attempts to claim access to the land on religious grounds.

One such effort in 1981 was the American Indian Movement's (AIM) establishment and occupation of Yellow Thunder Camp on eight hundred acres of public-use land in the Black Hills. AIM had obtained a permit to camp on the site, and it also applied for permission to construct more than eighty permanent structures. Despite the fact that the Black Hills Sioux Nation Council withdrew its support for the occupation after less than a week, the camp existed for years while AIM litigated the U.S. Forest Service's denial of the permit to build permanent structures. Federal courts eventually upheld the Forest Service's decision and the camp was abandoned.

In the mid- to late 1980s, several bills were introduced in Congress to return significant portions of the Black Hills to the Sioux, including one in 1985 by Senator Bill Bradley (D-NJ), the former Knicks basketball player. Bradley became interested in the Black Hills situation both because of the merits of the situation and as a result of his friendships with a number of Indian people, whom he met during basketball camps he sponsored on the Pine Ridge reservation. This and other legislative efforts to return the Black Hills also failed, however, largely as a result of opposition by South Dakota officials; the complicated task of balancing the public and private interests in the region, which encompass both economic and recreational interests; and disputes among the Sioux themselves about how to proceed.

See also *American Indian Movement (AIM)*; *Custer, George Armstrong*; *Fort Laramie (1851), Treaty of*; *Fort Laramie (1868), Treaty of*; *Gold and Gold Rushes*; *Indian Claims Commission Act*; *Little Bighorn (1876), Battle of*; *Red Cloud*; *Wounded Knee Massacre (1890)*; *Yellow Thunder*.

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BIBLIOGRAPHY

- LaVelle, John P. "Rescuing Paha Sapa: Achieving Environmental Justice by Restoring the Great Grasslands and Returning the Sacred Black Hills to the Great Sioux Nation." *Great Plains Natural Resources Journal*, vol. 5 (Spring-Summer 2001): 40-96.
- Lazarus, Edward. *Black Hills, White Justice: The Sioux Nation Versus the United States, 1774 to the Present*. New York: HarperCollins 1991.
- New Holy, Alexandra. "The Heart of Everything That Is: Paha Sapa, Treaties, and Lakota Identity." *Oklahoma City University Law Review*, vol. 23 (Spring-Summer 1998): 317-352.

Office of Senator Daniel Inouye. "1986 Black Hills Hearing on S. 1453: Introduction." *Wicazo Sa Review*, vol. 4 (Spring 1988): 10–13.

Pommersheim, Frank. "The Black Hills Case: On the Cusp of History." *Wicazo Sa Review*, vol. 4 (Spring 1988): 18–23.

Sundstrom, Linea. "Mirror of Heaven: Cross-Cultural Transference of the Sacred Geography of the Black Hills." *World Archaeology*, vol. 28 (October 1996): 177–189.

United States v. Sioux Nation of Indians, 448 U.S. 371 (1980).

Black Kettle (Motavato)

Black Kettle (Motavato) (c.1803–1868), a Southern Cheyenne leader, signed treaties on behalf of his people during the turbulent middle years of the nineteenth century. He is remembered for his commitment to peace with the whites and for his tragic death.

The 1851 Fort Laramie Treaty, which he signed, guaranteed the Cheyennes hunting grounds in Kansas and Colorado in exchange for significant land cessions. When the Gold Rush began in 1848, triggering a flood of settlers into the area, government agents induced some, but not all, Cheyenne leaders to sign the 1861 Treaty of Fort Wise. That further reduced their territory and created a reservation on Sand Creek in eastern Colorado. The new reservation failed to meet the Cheyennes' subsistence needs and some began raiding settlements. The whites retaliated and conflict spread. Desiring peace, Black Kettle led his band back to Sand Creek. Despite assurances to the contrary, Colonel Chivington's Colorado Volunteers attacked their village on November 29, 1864, killing approximately 150 men, women, and children. Black Kettle survived and continued to promote peace.

The government then moved the Cheyennes to a reservation in southwestern Kansas and shortly thereafter to the Indian Territory. Some refused to go; others went but left when they did not receive the provisions promised. Some resumed raiding. Lt. Col. George A. Custer allegedly followed a raiding party to Black Kettle's village on the Washita River. While the raiders may have sheltered there, it is by no means certain they were members of his band. Custer ignored the white and American flags flying over Black Kettle's tepee to signal his "friendly" status and attacked at dawn on November 27, 1868. Black Kettle and many others (estimates vary) died in what some have called a massacre because of the seemingly indiscriminate killing of noncombatants. The public outcry that followed prompted a congressional inquiry.

See also *Custer, George Armstrong; Fort Laramie (1868), Treaty of; Sand Creek Massacre.*

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BIBLIOGRAPHY

- Greene, Jerome. *Washita: The U.S. Army and the Southern Cheyennes, 1867–1869*. Norman, Okla.: University of Oklahoma Press, 2004.
- Hatch, Thom. *Black Kettle: The Cheyenne Who Sought Peace but Found War*. Hoboken, N.J.: John Wiley and Sons, 2004.
- Hoig, Stan. *The Peace Chiefs of the Cheyennes*. Norman, Okla.: University of Oklahoma Press, 1980.
- . *The Sand Creek Massacre*. Norman, Okla.: University of Oklahoma Press, 1961.

Blood Quantum

Blood quantum is the idea that the degree of racial inheritance for an individual is measurable and significant to one's identity. The concept assumes that an individual's race determines physical, intellectual, or emotional characteristics. The blood quantum of an individual—that is, the percentage of ancestry that is white, American Indian, Asian, African, or some other race—holds implications for the social, economic, and political rights of a person as well as their status in the community. As its origin and use have determined numerous federal policies concerning peoples of indigenous descent, it remains a controversial issue for Native Americans.

Historical Overview

The origins of blood quantum are directly linked to the institution of slavery. Paralleling the development of slavery is the establishment and separation of races on the basis of physical characteristics. Europeans believed skin color, along with other outward biological characteristics, defined racial and social inferiority. Peoples of nonwhite racial ancestry were thought to possess inferior intellectual, moral, and social qualities in direct opposition to the superior qualities that automatically existed within "white" Europeans.

Over time blood quantum came to be used to track racial ancestry and define legal rights. In 1705 the colony of Virginia enacted laws to deny civil liberties to any person of African descent, mulatto, or American Indian. The law also applied to future generations, defining children, grandchildren, and great grandchildren as inferior members of society based on racial ancestry. Other colonies adopted similar laws, using blood quantum to define the extent of participation and privileges associated with full citizenship and racial status to other nonwhite races, including Native Americans.

Warfare against, and the isolation and confinement of, Native American tribes were seen as justified under the building of an American civilization that believed in the superiority of its racial makeup. Removal of indigenous populations under the authority of the Indian Removal Act of 1830 provided one solution for physically separating the races. After the Removal era, the U.S. government isolated American Indians on reservations. Another effort at separation was the passage of laws prohibiting marriages between Euro-Americans and “inferior” races. Earlier, North Carolina passed a code that forbade marriages between whites and Indians, people of African descent, or of mixed ancestry to the third generation. Racial identity had become closely attached to blood quantum.

After the Civil War (1861–1865), other racial questions arose about whether “inferior races” could be assimilated into American society and whether they would be a benefit to America’s national progress. With the acceptance of Charles Darwin’s evolutionary principles, many people believed that all societies followed similar paths from primitive to more complex in biological and social development. The belief held that inferior races would either be assimilated into the superior society or become extinct.

Native Americans

By the 1880s most Native American societies had been placed on reservations. For policy makers, reservations were considered a refuge for a declining inferior race that could be salvaged by forcing them out of their “primitive state” and requiring they interact with the “civilized” world. Using principles drawn from evolution and scientific racism, the federal government from 1880 to 1934 instituted a policy of forced assimilation that sought to destroy Native American cultures.

Blood quantum became a centerpiece in many federal forced assimilation policies, which were rooted in the racial belief that biological characteristics, mental attributes, and cultural capabilities were imparted through the blood of each individual race. Blood quantum, along with other social markers of Euro-American society, was used by the Office of Indian Affairs to track “civilized progress.” “Full bloods” often were deemed racially incapable of managing their own affairs, while “mixed-bloods” were considered more competent, usually because of the infusion of “white blood.”

By the nineteenth century blood quantum not only was used to calculate the degree of “Indianness,” but also was used increasingly in the management of Indian affairs. It was used to decide the degree and number of rights and benefits

granted to enrolled tribal members. As Indian policy evolved, blood quantum expanded to determine eligibility for federal resources and services, determine tribal membership, and outline economic and political benefits.

After the passage of the 1934 Indian Reorganization Act (IRA), blood quantum requirements for tribal membership were increasingly turned over to individual tribal governments. Many tribal constitutions—authorized by the IRA and encouraged by the Office of Indian Affairs (later renamed the Bureau of Indian Affairs)—adopted blood quantum as a criteria for defining ethnic identity, tribal enrollment, tribal citizenship, and eligibility for certain rights. Blood quantum standards have since become internalized among Native communities, who use it as a test for defining “Indianness.”

Recent research, however, concludes that there is little genetic distinction between America’s indigenous peoples. Tribal boundaries and ethnic differences did not hinder reproductive exchange between indigenous distinct societies. Thus, prior to having blood quantum imposed to define racial and community identity, kinship rather than biology was the core component of both social and individual ethnic affiliation. Every aboriginal society employed adoption, marriage, capture, and naturalization to incorporate individuals and groups from foreign societies, including Africans, Europeans, and other non-Natives. Such processes worked to negate genetic distinctions. Although the incorporation of people from distinct societies continued after being placed on reservations, most Native American societies, politically and socially, replaced these social mechanisms for defining their communities with blood quantum as major criteria.

The consequences of employing blood quantum continued to generate controversy. By the early twenty-first century, issues such as child custody cases, eligibility for health care and benefits, political and criminal jurisdiction, land claims settlements, local and federal taxation, royalties from resources, and per capita payments still had an element of blood quantum as part of the decision process. In 1990 for example, the passage of the Act for the Protection of American Indian Arts and Crafts deemed it a criminal offense for anyone not enrolled in a federally recognized tribe to identify themselves as Indian while selling art.

The implications of using blood quantum are evident in every aspect of contemporary Native American life. A Certificate of Degree of Indian Blood (CDIB) or a Certificate of Degree of Alaska Native Blood is issued to

determine citizenship in a specific federally recognized tribe or indigenous community. In some cases, only enrolled members with a CDIB are entitled to rights and resources. In 1985 Congress passed the Quarter Blood Amendment Act to determine which Native students are eligible for Indian education programs and tuition-free assistance at Bureau of Indian Affairs or contract schools. The act requires that the quarter-blood requirement be met with a Certificate of Indian Blood.

Native American demographic data reveal that from the twentieth century forward, there continues to be an increasing mixture between tribal members and non-Indian people. These trends have accelerated, raising concerns by some about preserving tribal biological and cultural purity. Some reservation tribal leaders argue that tribal constitutions should be amended to remove enrolled members who marry non-Indians or raise blood quantum levels on the premise that such measures are vital toward protecting the purity of Indian blood. Some ignore principles of kinship affiliation and other cultural practices for the incorporation of other people and adopt blood quantum as a “traditionalist belief.” In other documented instances, the prospect of increasing casino profits has convinced tribes to set higher blood quantum standards to eliminate members from tribal enrollments and thus ensure the profits need be spread among fewer individuals. This is generally referred to as “disenrollment.”

In 2000 a proposal was put forth to significantly alter the manner by which the Bureau of Indian Affairs calculates and invalidates a Certificate of Degree of Indian Blood or Certificate of Degree of Alaska Native Blood. The proposed change that received the most criticism amongst the Indians was limiting the calculation of “Indian blood” to only federally recognized tribes, effectively eliminating any ancestry from terminated tribes, a state-recognized tribal entity, or Native ancestry from other sources.

Such proposals and efforts run counter to contemporary Native American ethnic and demographic realities. Native peoples continue to intermarry with nonenrolled tribal members and reside apart from the place of their birth, making it more difficult to meet blood quantum standards as well as altering tribal identity. In addition, many individuals and communities—many of partial Native American descent—are seeking recognition. These trends ensure that blood quantum and its utility for establishing federally recognized tribal identity will be actively debated into the twenty-first century.

Conclusion

Despite the controversies that exist in indigenous communities over the internalization of blood quantum, most federally recognized tribes use it as a major criteria for determining tribal membership and eligibility for services. Blood quantum has divorced thousands of people from their Native American ethnic heritage by legally defining who is or is not a recognized person of Native American descent. For some individuals, blood quantum is a policy designed to “statistically exterminate” remaining Native American peoples. For others, it is a mechanism to legitimately define who may claim to be Native American. Blood quantum, as a concept, will remain a contested issue in the cultural and political landscape of Native North America.

See also *Assimilation and Acculturation; Bureau of Indian Affairs; Indian Removal Act of 1830; Indian Reorganization Act of 1934; Race and Racial Thinking.*

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BIBLIOGRAPHY

- Campbell, Gregory R. “Many Americas: The Intersection of Class, Race, and Ethnic Identity.” In *Many Americas: Critical Perspectives on Race, Racism, and Ethnicity*, edited by Gregory R. Campbell, 3–38. Dubuque, Iowa: Kendall Hunt Publishing, 2001.
- Crawford, M. H. *The Origins of Native Americans: Evidence from Anthropological Genetics*. New York: Cambridge University Press, 2001.
- Fogelson, Raymond D. “Perspectives on Native American Identity.” In *Studying Native America: Problems and Prospects*, edited by Russell Thornton, 40–59. Madison, Wis.: University of Wisconsin Press, 1998.
- Gould, Stephen J. *The Mismeasure of Man*. New York: W. W. Norton, 1996.
- Jaimes, M. Annette, “Federal Indian Identification Policy.” In *Critical Issues in Native North America*, Document 62, edited by Ward Churchill, 15–36. Copenhagen: International Work Group for Indigenous Affairs, 1988/1989.
- . “Federal Identification Policy: An Usurpation of Indigenous Sovereignty in North America.” In *The State of Native America, Genocide, Colonization, and Resistance*, edited by M. Annette Jaimes, 123–138. Boston, Mass.: South End Press, 1992.
- Jones, Nicholas A. *We the People of More than One Race in the United States*. Washington, D.C.: U.S. Department of Commerce, 2005.
- Ogunwole, Stella U. *We the People: American Indians and Alaska Natives in the United States*. Washington, D.C.: U.S. Department of Commerce, 2006.
- Stanton, William. *The Leopard's Spots: Scientific Attitudes Toward Race in America, 1815–1859*. Chicago, Ill.: University of Chicago Press, 1960.
- Thornton, Russell. *American Indian Holocaust and Survival: A Population History since 1492*. Norman, Okla.: University of Oklahoma Press, 1987.

Board of Indian Commissioners

The formation of the Board of Indian Commissioners (BIC) began when William Welsh, a wealthy Episcopal merchant from Philadelphia, and several other religious reformers called upon President Ulysses S. Grant and Congress in March 1869 to reform federal Indian policy. Specifically, Welsh wanted to mobilize Christians to help end corruption in the Office of Indian Affairs (OIA) and “civilize,” Christianize, and eventually make citizens of American Indians. Grant and Secretary of Interior Jacob D. Cox supported Welsh’s ideas. Congress authorized the president to form the BIC to oversee the Indian office in April 1869, and in June Grant issued an executive order creating the BIC and describing its duties. The BIC was relegated to work with the OIA on a variety of tasks, but primarily it was authorized to investigate and end corruption in the purchase of supplies for Indian reservations.

Nine northern Republican laymen, active in their Protestant denominations and the Young Men’s Christian Association, made up the first BIC. Service was voluntary, pro bono, and apolitical, though the board members functioned as advocates for the president’s Peace Policy. The BIC called for the establishment of schools with Christian teachers, the movement of Indians onto small reservations, the end of the cash annuity system, and a reservation judiciary, all in the hopes of preventing wars on the United States’ western frontiers. In an effort to ensure that Indian agencies were managed by honest men, the board recommended that they be parceled out among the Christian denominations. The board’s reformers blamed whites as the main inhibitors of Indian “civilization.” Nevertheless, they did not oppose white encroachment in the name of “progress.” They ultimately promoted the assimilation of the Indian to avoid Native extinction at the expense of Native culture.

Not unlike most OIA programs, the board almost immediately faced controversy. Some, including Commissioner of Indian Affairs Ely S. Parker and Secretary of Interior Columbus Delano, suggested that the role of the commissioners was chiefly advisory. Welsh, the board’s chair, believed that the organization should have the authority to take immediate action to correct what he saw as fairly obvious cases of financial dishonesty and mismanagement. This led to friction between the board and Parker. Welsh resigned after only a month as chair because he believed the BIC would not be allowed to share power equally with the secretary of interior. As an act of political vengeance, Welsh later brought

corruption charges against Parker. Though found innocent, Parker resigned.

The BIC made some strides towards reform under the Peace Policy. Chaired by Pittsburgh industrialist Felix Brunot for five years, the board promoted several of its objectives. In 1871 Congress ended the practice of conducting its relations with tribes through treaties, a policy recommended by the BIC. Delano and Parker asked the board to instead make “articles of convention” with various western Indian nations that Grant could then quickly approve.

Commissioners also oversaw annuity distributions and saved the government large amounts of money by rejecting bad supplies and inflated invoices. They disallowed almost 10 percent of contract monies from July 1873 to February 1874. Commissioners visited tribes throughout the West to negotiate agreements, determine annuities, and investigate the living conditions on the reservations.

BIC chair Felix Brunot worked tirelessly to bring reform to the OIA, but he and the rest of the board grew tired of their lack of influence. In 1873, as the Peace Policy’s popularity and the economy both waned, the entire original BIC resigned in protest. Grant appointed new members, but neither the BIC nor reform advocates ever regained strong influence in Washington.

Under Grant and his successor, Rutherford B. Hayes, the BIC supported consolidating reservations, giving Natives title to their own lands, and forming Native police forces for reservations. BIC member Ezra Hayt became Hayes’ commissioner of Indian affairs. By this time the commissioners were now recommending that boarding schools replace reservation day schools. The board also called for the allotment of Indian lands to individual tribal members, thus trying to break tribal identity by negotiating with Natives as individuals. The commissioners promoted equality of land allotments between Native men and women and argued for fair compensation for American Indian lands.

Every year from 1882 to 1916, the famed Lake Mohonk Conference of Friends of the Indian was held in New York in conjunction with the annual BIC meeting. The reformers called for equal treatment for Natives under the law, eventual Indian citizenship, and civil service reform for Native people. In 1913 the BIC supported investigations into treaty violations and promoted a system for Indian nations to file claims against the government. This helped lay the foundation for the idea of an Indian Claims Commission, which was established in 1946. In 1933 President Franklin Roosevelt disbanded the BIC and placed Indian affairs into

the hands of John Collier and his allies, individuals who held completely different ideas and objectives about how the United States ought to deal with its Native population.

See also *Allotment in Severalty; Assimilation and Acculturation; Brunot, Felix Reville; Civilization Program; Grant, Ulysses S.; Hayes, Rutherford B.; Lake Mohonk Conferences; Parker, Ely S.; Treaties: Historical Overview; Treaty Abrogation; Treaty Substitutes: Agreements and Executive Orders; Welsh, William.*

Scott L. Stabler

BIBLIOGRAPHY

- Fritz, Henry. *Movement for Indian Assimilation, 1860–1890*. Philadelphia, Pa.: University of Pennsylvania Press, 1973.
- Mardock, Robert Winston. *The Reformers and the American Indian*. Columbia, Mo.: University of Missouri Press, 1971.
- McDermott-Faulkner, Sandra. “U.S. Board of Indian Commissioners: Membership and Policy, 1869–1887.” Thesis, University of Oregon, June 1984.
- Prucha, Francis Paul. *American Indian Policy in Crisis: Christian Reformers and the Indians, 1865–1900*. Norman, Okla.: University of Oklahoma Press, 1976.

Bonnin, Gertrude

Gertrude Simmons Bonnin (1876–1938), also known as Zitkala-Sa (Red Bird), a Yankton Sioux, is best known for her autobiographical narratives and her recounting of oral traditions. However, she spent her adult life fighting for American Indian rights. Her articles in *The Atlantic Monthly*, published in the early 1900s, expressed the indignation she felt over American Indians’ treatment in the United States. The positions she held with the Society of American Indians (SAI) gave her the influence to serve as a political spokeswoman and reformer for Native causes, and her writing, political lobbying, and activism influenced several areas of American Indian law.

Ironically, Bonnin’s work both supported and opposed the government’s assimilation programs. While the SAI operated on the principle of assimilation, it attempted to restore Indian autonomy through political reform. Bonnin’s lobbying efforts led to Colorado’s passage of the Crowley Bill (1917), making it the first state to prohibit the use of peyote, a substance derived from cacti that produces hallucinations.

Bonnin’s public speaking and lobbying efforts influenced Charles Curtis, a Kaw Indian congressman, to introduce the Indian Citizenship Act, which passed in 1924. This bill made every American Indian a citizen of the United States with the right to vote. In 1926 Bonnin formed the National

Council of American Indians, a pan-Indian political organization that united tribes to help fight for Indian rights.

In “Oklahoma’s Poor Rich Indians: An Orgy of Graft, Exploitation of the Five Civilized Tribes, Legalized Robbery” (1924), Bonnin’s investigation of robberies, land thefts, and oil-motivated murders committed against Indians in Oklahoma pressured Congress to enact reforms.

Bonnin’s introduction of American Indians’ concerns to the general public through her activism and writing paved the way for later pan-Indian movements.

See also *Assimilation and Acculturation; Education: Boarding Schools; Indian Citizenship Act of 1924; Missions and Missionaries.*

Elizabeth Archuleta

BIBLIOGRAPHY

- Bonnin, Gertrude. “Oklahoma’s Poor Rich Indians: An Orgy of Graft, Exploitation of the Five Civilized Tribes, Legalized Robbery.” In *Native American Women’s Writing, 1800–1924: An Anthology*, edited by Karen L. Kilcup, 341–349. Malden, Mass.: Blackwell, 1998.
- Hannon, Charles. “Zitkala-Sä and the Commercial Magazine Apparatus.” In *The Only Efficient Instrument: American Women Writers and the Periodical, 1837–1916*, edited by Aleta Feinsod Cane and Susan Alves, 179–201. Iowa City, Iowa: University of Iowa Press, 2001.
- Hafen, P. Jane. *Dreams and Thunder: Stories, Poems and the Sun Dance Opera*. Lincoln, Neb.: University of Nebraska Press, 2001.
- Six, Beverly G. “Zitkala-Sa (Gertrude Simmons Bonnin) (1876–1938).” In *American Women Writers, 1900–1945: A Bio-Bibliographical Critical Sourcebook*, edited by Laurie Champion, 383–387. Westport, Conn.: Greenwood, 2000.
- Willard, William. “The First Amendment, Anglo-Conformity and American Indian Religious Freedom.” *Wicazo Sa Review*, vol. 7, (Spring 1991): 25–30.
- Zitkala-Sa. “Why I Am a Pagan.” *Atlantic Monthly*, vol. 90 (1902): 801–803.
- . *American Indian Stories*. 1921. Reprint, Glorieta, N.Mex.: Rio Grande Press, 1976; reprint Lincoln, Neb.: University of Nebraska Press, 1985.

Boone, Daniel

Daniel Boone (1734–1820), an American frontiersman, was born in Berks, Pennsylvania; grew up in western North Carolina on the banks of the Yadkin River; and died in Missouri. He lived in the same community as well-known explorer and surveyor Christopher Gist (Sequoyah) in Wilkes County, North Carolina, and met his wife, Rebecca Bryan, there. Boone gained fame not only as an intrepid pioneer, paving the way for settlers through the Cumberland Gap, but also for his skill in fighting Indians. This warrior reputation was launched when he fought on the British side during the French and Indian War (1754–1763).

In 1775 Boone founded the Boonesborough settlement, which was attacked by the Shawnee in resistance to settler expansion. Between 1777 and 1778, Boone and twenty-six of his companions were captured by the Shawnees, in part as retaliation for the murder of the Shawnee leader Cornstalk, and in part because the Shawnees sided with the British in the American Revolutionary War (1775–1783) against the settlers. Boone was adopted by the Shawnee chief Black Fish during his captivity, and he managed to escape after three months. During the war, Boone was elected to the Virginia General Assembly, where he served three terms. He was part of an expedition led by George Rogers Clark in 1782 that was notorious for its savage attacks against the Shawnees.

Boone died in Missouri at the age of eighty-five. His adventures became legendary even while he was still living, and he has become a part of American legend through ballads, songs, books, television portrayals, and movies.

See also *American Revolutionary War (1775–1783)*; *Clark, George Rogers*; *French and Indian War*; *Sequoyah*.

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BIBLIOGRAPHY

- Faragher, John Mack. *Daniel Boone: The Life and Legend of an American Pioneer*. New York: Henry Holt and Company, 1992.
- Morgan, Robert. *Boone: A Biography*. Chapel Hill: Algonquin Books of Chapel Hill, 2007.

Bosque Redondo

The term Bosque Redondo means “round wood.” To the Navajo people, however, these words hold a much more bitter meaning: “the suffering times.”

In 1862 the United States was deeply involved in the Civil War (1861–1865), and thousands of Americans took the opportunity to flee the war-torn lands and head west, across Indian lands. In the territory of New Mexico, settlers, and later the U.S. cavalry, met fierce resistance from the Navajo and Mescalero Apache people who fought to maintain control of their traditional lands and way of life. In an effort to remove the Indians from the path of the westward bound settlers, the army made war on them. In 1862 General James H. Carleton was placed in command of the military in Arizona and New Mexico. Carleton made it his first priority to conquer the Mescalero Apaches and Navajos.

In 1852 General Carleton visited the Bosque Redondo trading post in Arizona. The old post had served as a meeting place where the Spanish and Mexicans traded with the

Apaches and Comanches. Because of the isolation of the post, Carleton felt that Bosque Redondo would be an excellent site for an Indian reservation on which to incarcerate the resistant Apaches and Navajos. President Abraham Lincoln approved Carleton’s request for the thirteen-thousand-acre reservation, and Fort Sumner was built nearby.

General Carleton next began a search for a military officer to carry out a campaign to kill or capture resistant Apache and Navajo warriors. He found his man in Colonel Kit Carson. From 1863 to 1864, Carson carried out the assignment with the same zeal and professionalism that he had exhibited during the Civil War. He turned his full attention to the Navajos and delivered Carleton’s ultimatum: “Surrender or die.” A pitched battle raged between the Navajo and Carson’s men. Carson launched expeditions to destroy the Navajo economic livelihood. He ordered his men to cut down all the trees, wheat, and corn growing in Canyon de Chelly. His men pillaged Native crops and slaughtered their sheep herds, the economic mainstay of many Navajo people. Those Navajos not killed in battle were starved into submission and forced to march a desperate journey, known as The Long Walk, into captivity. It was an extremely difficult passage for the Navajos, made mostly on foot. The march took almost two months to complete. Ultimately, the number of internees increased to between nine and ten thousand individuals.

The Navajo leader Manuelito (1818–1894) and his forces held out against capture for a considerable time. He eventually allowed his remaining warriors to surrender only after a prolonged army pursuit. Another important Navajo warrior, Barboncito (1820–1871), fought alongside Manuelito but was captured and taken to Bosque Redondo.

Life at Bosque Redondo was harsh. One objective of the federal government was to teach the residents of the reservation to farm like Anglos. However, conditions at Bosque Redondo made this goal difficult to achieve. Shelter consisted of holes in the ground covered by tree branches and leaves. Indian women were repeatedly raped by the soldiers and syphilis spread rapidly among the Navajos. Food was always difficult to obtain and the water supply was nothing more than a polluted creek. Approximately three thousand of the internees died from dysentery and other diseases. In 1865 most of the Mescalero Apaches eluded their military guards and abandoned the reservation.

Incarceration at Bosque Redondo ended when the U.S. government acknowledged Navajo sovereignty in the Treaty of 1868. The treaty set aside 3.5 million acres of land in New

Mexico, Arizona, and Utah, but amounted to less than one-fifth of the tribe's former holdings and was mostly barren, dry, and unsuitable for agriculture. Those Navajos who survived the Bosque Redondo internment returned to Deneta (the Navajo homeland). The procession of survivors was ten miles long.

See also Carleton, James Henry; Carson, Christopher "Kit"; Manuelito.

Troy R. Johnson

BIBLIOGRAPHY

- Bailey, Lynn. *Bosque Redondo: An American Concentration Camp*. Pasadena, Calif.: Socio-Technical Books, 2003.
- Bruchac, Joseph. *Navajo Long Walk: Tragic Story of a Proud Peoples' Forced March from Their Homeland*. Washington, D.C.: National Geographic Society, 2002.
- Shinkle, James D. *Fort Sumner and the Bosque Redondo Indian Reservation*. Roswell, N.Mex.: Hall-Poorbaugh Press, 1965.
- Thompson, Gerald. *The Army and the Navajo*. Tucson, Ariz.: The University of Arizona Press, 1976.

Boudinot, Elias

Elias Boudinot (Buck Watie) (1804–1839), originally named Gallegina ("Mule Deer"), bridged the Anglo-American and Native American worlds as an associate of the American Missionary Board and clerk of the Cherokee National Council. Boudinot was a committed advocate of education and the Christian religion in the effort to "civilize" his fellow Native Americans. Indeed, Boudinot showed his own commitment to assimilation early in life when he adopted the name of the former leader of the American Bible Society and later married Harriet Ruggles Gold, a non-Cherokee, in 1826. The mixed union shocked the Connecticut community, and to escape the hostility, Boudinot returned to the Cherokee Nation.

Boudinot was an articulate and provocative spokesman for the Cherokees. He was editor of the *Cherokee Phoenix*, a Cherokee newspaper that highlighted the great accomplishments of Native American culture. He also used the newspaper as a forum to defend the rights of the Cherokee people against those who wanted to remove the Cherokees to the West.

When the Georgia legislature purported to extend its jurisdiction over Cherokee territory, the Cherokees brought a suit that would enjoin the state's actions. In *Cherokee Nation v. Georgia* (1831), four Supreme Court justices recognized the validity of Cherokee claims, but declined to hear the case on the ground that the Cherokees lacked substantial stand-

ing. The case was inconclusive. In a later case, *Worcester v. Georgia* (1832), in which a Georgia court sentenced Samuel Austin Worcester to four years in prison for refusing to secure a license from the state to reside in the Cherokee Nation, the Supreme Court held that the Cherokee Nation was a sovereign nation and that Georgia's encroachments on its territory and autonomy were unconstitutional.

Congress and President Jackson were unwilling to enforce the Court's ruling, however, and some Cherokees, including Boudinot, began to push for removal, believing that it was the only way for their society and civilization to survive. Boudinot; his uncle, Major Ridge; and his cousin, John Ridge, became leaders of what was known as the Treaty Party. John Ross, principal chief of the Cherokee Nation, and the Cherokee National Council opposed removal, and animosities developed between Ross's supporters and the Treaty Party. Under pressure from Ross, Boudinot resigned as editor of the *Cherokee Phoenix*. In December 1835 a minority of proremoval Treaty Party supporters met at New Echota to negotiate the relocation of the Cherokee Nation. The agreement they signed, the Treaty of New Echota, provided for an exchange of the Cherokee homeland in the Southeast for a large parcel of land in the Indian Territory. Many Cherokees, especially Ross, rejected the treaty and denounced as traitors those who signed it. Twice during the 1820s the Cherokee Nation had passed laws providing for the death of those who ceded tribal land without the authority of the Cherokee government. In 1839 a group of Cherokees loyal to Ross killed Boudinot and the two Ridges for their part in negotiating the Treaty of New Echota.

See also *Assimilation and Acculturation*; Cherokee Nation v. Georgia; Cherokee Phoenix; *Indian Removal Act*; *New Echota, Treaty of*; *Ridge Family*; *Ross, John*; *Trail of Tears*; *Worcester v. Georgia*.

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BIBLIOGRAPHY

- Gabriel, Ralph Henry. *Elias Boudinot, Cherokee, and His America*. Norman, Okla.: University of Oklahoma Press, 1941.
- Gaul, Theresa Strouth, ed. *To Marry an Indian: The Marriage of Harriet Gold and Elias Boudinot in Letters, 1823–1839*. Chapel Hill: University of North Carolina Press, 2005.
- Perdue, Theda, ed. *Cherokee Editor: The Writings of Elias Boudinot*. Knoxville, Tenn.: University of Tennessee Press, 1983.
- Perdue, Theda, and Michael Green. *The Cherokee Nation and the Trail of Tears*. New York: Viking, 2007.
- Wilkins, Thurman. *Cherokee Tragedy: The Ridge Family and the Decimation of a People*. Norman, Okla.: University of Oklahoma Press, 1886.

Boudinot, Elias Cornelius

Elias Cornelius Boudinot (1835–1890), a Cherokee lawyer and businessman, became an influential critic of tribal sovereignty in the late nineteenth century. He was the son of Elias Boudinot, editor of the *Cherokee Phoenix* and a leader of the proremoval Treaty Party. When his father was killed by fellow Cherokees in 1839 for having signed the Treaty of New Echota, which required the removal of the tribe to the Indian Territory, Boudinot went to live with white relatives in New England. He later practiced law and ran a newspaper near Indian Territory. He fought for the Confederacy in the Civil War (1861–1865) under his uncle, Stand Watie. Boudinot served as a Cherokee delegate to the Confederate Congress.

After the war, Boudinot gained prominence by arguing that the Indian Territory should be opened to white settlers. Separate tribal nations, he believed, could not survive in the face of an expanding modern America. It would be best, he insisted, if the federal government threw aside the treaties and allowed Indian communities to be absorbed into the United States. He broadcast these views widely in newspapers and as a lobbyist in Washington. Boudinot offered a Cherokee voice in support of policies like allotment (the United States plan to divide and distribute the communal lands of the tribes to individuals), that the Cherokee government opposed. In the late 1870s, Boudinot helped to inspire “boomers,” organized squatters who invaded Indian Territory in an effort to gain control of unused tribal property.

Boudinot left his mark on American Indian legal history as the individual behind the *Cherokee Tobacco Case* (1871). In the late 1860s, Boudinot established a tobacco processing factory in the Cherokee Nation. He attempted to market his product in neighboring states without first paying federal excise taxes, believing he could avoid this burden under a provision of the Cherokees’ 1866 treaty. The legal case that grew out of this situation eventually went to the Supreme Court, where Boudinot lost. The Court’s ruling helped to establish the principle that Congress could override Indian treaties.

See also *Boudinot, Elias; Indian Territory.*

Andrew Denson

BIBLIOGRAPHY

Cherokee Tobacco Case, 78 U.S. 616 (1871).

Parins, James W. *Elias Cornelius Boudinot: A Life on the Cherokee Border*. Lincoln, Neb.: University of Nebraska Press, 2006.

Wilkins, Thurman. *Cherokee Tragedy: The Ridge Family and the Decimation of a People*. Norman, Okla.: University of Oklahoma Press, 1970.

Bowl

Bowl (1756–1839), also known as Chief Bowles or Chief Duwali, was the principal chief of a Texas tribe of Cherokees. He was born in North Carolina to a Cherokee mother and a Scottish father and rose to become chief in the western North Carolina Cherokee village of Running Water. In 1794 Bowl became involved in a violent altercation with white settlers traveling down the Tennessee River. After a settler killed a Cherokee, Bowl and his followers retaliated, killing five white men in an event that came to be known as the Muscle Shoals Massacre. The incident led the Cherokee National Council to condemn Bowl.

Although the United States government cleared him of the charges, Bowl fled North Carolina and settled in Missouri’s St. Francis River Valley. From there, he and his people moved through Arkansas during the early 1800s until they settled in the eastern Texas town of Nacogdoches. There, Bowl became the chief of a collection of villages and tried multiple times to secure ownership of Cherokee lands from the Mexican government. When Texas became independent, Bowl was guaranteed possession of lands through a treaty negotiated and signed by his friend, Sam Houston. The friendship, as well as the promise of the land, ended when the Texas Legislature invalidated the treaty. Outraged, Bowl attempted to align with Mexico, bringing cries of treason from the new Texas president, Mirabeau B. Lamar, who ordered the expulsion of the Cherokees. Bowl and his people resisted, and in July 1839, Bowl was killed in the resulting Battle of Neches.

Kristin Teigen

BIBLIOGRAPHY

Camp, Worth, Jr. “The Choctaw and Cherokee in Union County: Before and After the Removal of the 1830s and Today.” *South Arkansas Historical Journal*, vol. 1 (Fall 2001). Available online at www.southark.edu/class-information/dynpage.asp?pageID=1915.

Clarke, Mary Whatley. *Chief Bowles and the Texas Cherokees*. Norman, Okla.: University of Oklahoma Press, 1971.

Logan, Charles Russell. “The Promised Land: Cherokees, Arkansas and Removal, 1794–1839.” www.arkansaspreservation.org/pdf/publications/Cherokee_Removal.pdf.

Texas State Library and Archives Commission. "Bowl to Sam Houston, August 16, 1836." <http://www.tsl.state.tx.us/exhibits/indian/early/bowles-houston.html>.

Bowlegs, Billy

Known as "the Alligator Chief" by his fellow Seminoles, Billy Bowlegs (1810–1864) was an effective military and diplomatic leader who rose to prominence during the second and third Seminole wars (1835–1842; 1857–1858).

In the 1830s, a multilingual Bowlegs forged beneficial ties with the Spanish in Cuba. These connections helped the Seminoles avoid dependence on their American neighbors, who wanted their Florida lands and their African American allies. After signing the 1832 Treaty of Payne's Landing, Bowlegs reversed his position and rejected the treaty because it called for the Seminoles to be removed from Florida. After the end of the resulting Second Seminole War, he became a leader of the postwar resistance. He used guerilla tactics to resist the onslaught of settlers who came to Florida after the 1842 Armed Occupation Act was passed.

In the 1850s Bowlegs represented the Florida Seminoles in several negotiations with the United States. In an 1852 meeting with President Millard Fillmore, Bowlegs declared that the Florida Seminoles would not remove to Indian Territory. The United States spent much of the Third Seminole War trying to capture Bowlegs, which it eventually did. In 1858 the Seminole chief Wild Cat returned from Indian Territory with an offer of \$10,000 plus \$1,000 per person to induce Bowlegs and his followers to remove west. After a period of resistance, Bowlegs agreed and relocated to the Seminole lands in the Indian Territory.

Bowlegs sided with the Union during the American Civil War (1861–1865). He enlisted in the U.S. Army in 1862 and saw considerable action in Indian Territory and Kansas. He died of smallpox in 1864.

See also *Indian Territory; Removal; Second Seminole War.*

Andrew K. Frank

BIBLIOGRAPHY

- Covington, James W. "Billy Bowlegs, Sam Jones, and the Crisis of 1849." *Florida Historical Quarterly*, vol. 68 (January 1990): 299–311.
- . *The Billy Bowlegs War, 1855–1858, The Final Stand of the Seminoles Against the Whites*. Chuluota, Fla.: Mickler House Publishers, 1982.
- Porter, Kenneth. "Billy Bowlegs (Holata Micco) in the Civil War." *Florida Historical Quarterly*, vol. 45 (April 1967): 219–242, 391–401.

Bowles, William Augustus

A Maryland-born Loyalist during the American Revolutionary War (1775–1783), William Augustus Bowles (1763–1805) spent most of the latter part of his life defying Spanish and American officials and trying to create a new Indian community in Florida.

When the Revolutionary War began, a thirteen-year-old Bowles enlisted as an ensign in the Maryland Loyalists Battalion. After being discharged for dereliction of duty while in Pensacola, Florida, he lived for a time with the Creek Indians, most of whom supported the British. Bowles rejoined the British Army, but then fled to the Bahamas. He later returned to the Creeks in Florida to oppose the Indian trade monopoly held by the Panton and Leslie Company and the increasing influence of chief Alexander McGillivray, who was friendly with Spain and the United States.

Bowles angered many Creeks when he began to trade along the Chattahoochee River, and he took refuge in the Bahamas before again returning to Florida, where he tried to create an independent Indian state. In 1799 he declared himself "Director General" of the "State of Muskogee" and attracted a mix of Native, white, and black followers. Many of Bowles' followers were disillusioned by McGillivray's leadership and by the general trends in Creek society toward greater centralization and increased reliance on the marketplace and slave labor. In 1800 Bowles declared war on Spain and continued his campaign against Florida authorities.

Bowles married two Indian women—one Creek and the other Cherokee. He reputedly could speak at least three Native dialects. He was arrested in 1803 and died in a Havana prison in 1805.

See also *McGillivray, Alexander.*

Andrew K. Frank

BIBLIOGRAPHY

- Frank, Andrew K. *Creeks and Southerners: Biculturalism on the Early American Frontier*. Lincoln, Neb.: University of Nebraska Press, 2005.
- Wright, J. Leitch, Jr. *William Augustus Bowles: Director General of the Creek Nation*. Athens, Ga.: University of Georgia Press, 1967.

Boyer, LaNada (Means)

LaNada Boyer (1947–), a Shoshone-Bannock, is from the Fort Hall Indian reservation in Idaho and was one of the original Indian students who occupied Alcatraz Island on November 19, 1969. The occupation was an attempt by

young American Indian college students to focus the nation's attention on the government's failed termination policy, the violation of Indian treaty rights, and the abandonment of thousands of Indians who had been relocated to urban areas.

Boyer, then LaNada Means, moved to the San Francisco Bay Area as part of the U.S. government relocation program that was intended to detribalize Indians, abolish Indian reservations, and assimilate reservation Indians into the urban population. During the Alcatraz occupation, Boyer commuted daily from the island to the University of California, Berkeley, to continue her studies, and completed her master's degree in public administration, graduating with honors in 1971.

As chair of the Indian student group from Berkeley, she coordinated with Richard Oakes (Mohawk), a student at San Francisco State University, in the takeover of Alcatraz and maintained a strong leadership role throughout the nineteen-month occupation. In addition to being an organizer and leader on the island, Boyer traveled throughout the United States giving lectures and raising support for the occupiers.

Boyer developed her political ideology from her life experiences in Native American boarding schools, life on an Indian reservation, and as a victim of the federal relocation program. She saw first-hand that Natives were being deprived of their basic dignity. Children were beaten for speaking their native language, practicing their culture, and following their own religions. She believed that Indians did not enjoy basic civil liberties or protection through the American court system.

As the first Native American student at Berkeley, Boyer played a leading role in the establishment of the Native American Studies program in 1968. In 1999 she completed her doctorate in political science at Idaho State University, the first member of her tribe to attain that level of education.

Later in her life, Boyer served a two-year term as a member of the Shoshone-Bannock Tribal Business Council. She directed two tribal health clinics in Nevada and northern California. Boyer has also served with many local and national Indian organizations, including the United Native Americans, Indians of All Tribes, the Bay Area Native American Council (BANAC), the Native American Rights Fund, the Bannock Shoshone Legal Research Project, and the National Head Start Policy Board.

See also *Alcatraz Island, Seizure of.*

Troy R. Johnson

BIBLIOGRAPHY

- Hightower-Langston, Donna. "American Indian Women's Activism in the 1960 and 1970s." *Hypatia* 18, no. 2 (Spring 2003): 114–132.
- Johnson, Troy, Joane Nagel, and Duane Champagne, eds. *American Indian Activism: Alcatraz to the Longest Walk*. Urbana, Ill.: University of Illinois Press, 1997.
- Winton, Ben. "Alcatraz: Taking Back 'The Rock'" *Native Peoples Magazine* (Fall 1999): 26–34.

Bozeman Trail War (1865–1868)

The Bozeman Trail was a shortcut from Fort Laramie on the Oregon Trail to Virginia City and the gold fields of Montana. It was established in 1863 by John Bozeman and John Jacobs and followed a route used by American Indians across the prime hunting grounds of the Powder River country.

The Bozeman Trail War (1865–1868) was fought to close the trail, which crossed land promised to the Lakotas (Sioux) by the 1851 Fort Laramie Treaty. The war is sometimes called "Red Cloud's War" or the "Powder River War" and was the only time American Indians defeated the United States in a major war. Red Cloud was the triumphant Lakota leader, and the war elevated a young warrior named Crazy Horse to prominence.

In spring 1866, U.S. representatives met with the Lakotas at Fort Laramie, ostensibly to discuss the possibility of negotiating a treaty that would allow forts to be built along the Bozeman Trail. During the meeting, federal troops arrived at the fort with both the orders and the supplies to build the forts. The Indians, led by Red Cloud, were outraged at this double-dealing and left the negotiations.

Despite Indian objections and attacks on those who constructed the trail, three forts were built: Fort Reno near modern-day Buffalo, Wyoming; Fort Phil Kearny near modern-day Sheridan, Wyoming; and Fort C. F. Smith, near modern-day St. Xavier, Montana, on the Crow reservation. By the end of 1866, continual attacks by Lakota, Cheyenne, and Arapaho warriors had effectively closed the Bozeman Trail to nonmilitary travel. Although most attacks were minor, there were 150 deaths by the end of November, and anyone who left a fort for any reason was at risk.

U.S. soldiers—most of them new recruits—under the command of Colonel Henry Carrington maintained the forts along the trail. In December 1866, Captain William Fetterman and eighty others were drawn outside Fort Phil Kearny and into a trap set by Crazy Horse and about two thousand warriors. All of the soldiers were killed.



American Horse, chief of the Oglala Lakotas, rose to prominence during the Bozeman Trail War. The conflict was the only time Indians won a major war against the United States. It was fought over land promised to the Lakotas in an 1851 treaty.

The killing of Fetterman's command was the worst defeat the U.S. had suffered by western Indians and led to a heated policy dispute in Washington, D.C. The Department of War and General William Tecumseh Sherman, the Civil War general and head of the western military, thought the Indians should be exterminated. Others, centered in the Department of the Interior, thought they should be reformed and acculturated through the reservation policy.

Congress passed a law in July 1867 that authorized a peace commission but reserved the option to deal with Indian issues militarily. The next month, in the Wagon Box Fight near Fort Smith, U.S. soldiers survived only because they had new, repeating rifles.

In 1868, U.S. negotiators reached Fort Laramie, where the treaty that guaranteed the abandonment of the Bozeman Trail and its forts was signed. Fort Phil Kearny was burned to the ground before its soldiers were out of sight, and the Lakotas regained control of the Powder River country.

See also *Crazy Horse*; *Red Cloud*; *Sherman, William T.*

Lilias C. Jones Jarding

BIBLIOGRAPHY

- Larson, Robert W. *Red Cloud: Warrior-Statesman of the Lakota Sioux*. Norman, Okla.: University of Oklahoma Press, 1997.
- Price, Catherine. *The Oglala People, 1841–1976*. Lincoln, Neb.: University of Nebraska Press, 1996.
- Sajna, Mike. *Crazy Horse: The Life Behind the Legend*. New York: John Wiley and Sons, 2000.
- Utley, Robert M. *The Indian Frontier 1846–1890*. Albuquerque, N.Mex.: University of New Mexico Press, 1984.

Brant, Joseph

As a Mohawk leader, interpreter, war chief, diplomat, and British Indian Department officer, Joseph Brant (c. 1742–1807; Thayendanegea) used his linguistic skills, family connections, charisma, cunning, and British education to lead northeastern Indians in Native struggles against the encroachment of American settlers during the revolutionary period.

Although scholars disagree over the exact date and place of Brant's birth, one thing is clear: he spent his boyhood years in Canajoharie, a powerful Mohawk town in present-day upstate New York. Brant came from a prominent Mohawk family that, by the time of his birth, practiced a form of Iroquois Christianity. When Brant's older sister, Molly, became the common-law wife of Sir William Johnson, the British superintendent of Indian affairs, Joseph Brant and the rest of his family gained even greater prestige and power. The union of Johnson and Molly Brant also proved advantageous for both the Mohawks, who obtained a healthy share of British goods and favors, and the British Empire, which acquired military and political support from the Iroquois.

Impressed with Brant's potential as a go-between for the British, Johnson sent him to Eleazar Wheelock's Moor Indian Charity School (present-day Dartmouth College). Throughout his life, Brant made use of his knowledge of English culture and the English language to further the interests of the Six Nations (the Iroquois confederacy consisting of the Oneidas, Tuscaroras, Onondagas, Cayugas, Senecas, and Mohawks).

Convinced that the survival and continued well-being of the Six Nations depended on an alliance with the British, Brant fought with the British against the Americans during the American Revolutionary War (1775–1783). For Brant and other Native Americans, the Treaty of Paris (1783) that

brought a formal end to hostilities between the British and Americans did not end the war. In fact, the terms of the treaty represented a new fight for Native Americans. The United States saw the Mississippi River as its new western boundary. The British agreed to cede the lands to the Americans, and from the perspective of the American government, this meant that as allies of the British, Indians also lost any claim to the land. But neither Brant nor any other American Indian participated in the peace negotiations in Paris, and the treaty terms angered Native peoples, especially those who lived on land that the Americans declared to now be the public property of the U.S. government.

After the revolution, Brant sought to unify the Iroquois with Indians in northwestern New York to stop the westward movement of American settlers. Ultimately, Brant failed both in his quest to create a sustained pan-Indian defense and in his goal of preventing the expansion of American territory. Brant's death in 1807 represented the passing of an Indian leader whose ability to maneuver within and between British and Indian cultures made him one of the most famous Native American Indians of his generation.

See also *American Revolutionary War (1775–1783); Brant, Mary (Molly); Great Britain, Indian Policy of; Paris (1783), Treaty of; U.S. Indian Policy: Congress and the Executive, 1775–1803.*

P. Albert Lacson

BIBLIOGRAPHY

- Graymont, Barbara. *The Iroquois in the American Revolution*. Syracuse, N.Y.: Syracuse University Press, 1972.
- Kelsay, Isabel Thompson. *Joseph Brant 1743–1807: Man of Two Worlds*. Syracuse, N.Y.: Syracuse University Press, 1984.
- O'Donnell, James H., III. “Joseph Brant.” *American Indian Leaders: Studies in Diversity*. Lincoln, Neb.: University of Nebraska Press, 1980.

Brant, Mary (Molly)

Comfortable operating among British colonists and the Iroquois peoples of the northeast, Mary (Molly) Brant (c. 1736–1796) fashioned herself into an intercultural broker, and became one of the eighteenth century's most influential Native American women. Born into an influential Mohawk family in a matrilineal culture that valued the role of women as political figures, Molly, as she was generally known, held a great deal of prestige and political power. In 1759 she married Sir William Johnson, the British superintendent of Indian affairs for the Northern Department, which strengthened her authority among the Iroquois and the British. By

marrying Johnson, she gained easy access to European gifts that she distributed to the Iroquois confederacy, known as the Six Nations, to help maintain their allegiance to the British.

After Johnson's death in 1774, Brant maintained her position as a cultural go-between by providing British military strategists with intelligence on American troop movements. In exchange for her efforts to preserve the loyalty of the Six Nations to the British and for the intelligence she shared, the British supplied her with goods and money so that she could maintain and continue to build a vast network of connections among the Oneidas, Tuscaroras, Onondagas, Cayugas, Senecas, and Mohawks. After the American Revolutionary War (1775–1783), Brant moved to Cataraqui (present-day Kingston, Ontario), where she received a pension of one hundred pounds a year from the British government until her death in 1796. Like her younger brother Joseph Brant, who was a well-respected Mohawk leader, diplomat, and interpreter, Molly used her familiarity with British culture in an effort to preserve the lands and political sovereignty of the Iroquois people.

See also *American Revolutionary War (1775–1783); Brant, Joseph; Gifts; Great Britain, Indian Policy of; U.S. Indian Policy: Congress and the Executive, 1776–1803.*

P. Albert Lacson

BIBLIOGRAPHY

- Carson, James Taylor. “Molly Brant: From Clan Mother to Loyalist Chief.” In *Sifters: Native American Women's Lives*, edited by Theda Perdue, 48–59. New York: Oxford University Press, 2001.
- Graymont, Barbara. *The Iroquois in the American Revolution*. Syracuse, N.Y.: Syracuse University Press, 1972.

Bridges, Alvin “Al” J.

Alvin J. Bridges (c.1922–1982), a fishing-rights activist and Native traditionalist of Nisqually, Duwamish, and Puyallup heritage, was born in Gig Harbor, Washington. Bridges fought for Native fishing rights and sovereignty. He helped bring about the Boldt decision (1974) that affirmed the right of many tribes to fish in Washington state. Many protests Bridges participated in occurred on the lower Nisqually River at Frank's Landing, a center of the controversy in the 1960s and 1970s. The fishing rights battle was rooted in treaties of 1854 and 1855 that gave several Northwest tribes the right to fish and hunt in all their “usual and accustomed” places and the efforts of the state of Washington to regulate

their fishing. The activists' fight to preserve fishing rights also represented an affirmation of tribal sovereignty.

Al Bridges was one of the first to participate in "fish-ins," during which people fished in open defiance of state agents. Fish-ins attracted national attention, the participation of celebrities, and often included violent confrontations with state game wardens and fisheries enforcement officers; Bridges was incarcerated many times. Some people branded him a renegade for fighting for off-reservation rights.

Bridges also was a traditionalist and a director of the Survival of American Indians Association, a group dedicated to preserving Native identity, culture, and customs. His home at Frank's Landing was a gathering place for traditionalists and activists. Bridges' wife, Maiselle, and his daughters played critical roles as strategists, organizers, and activists.

See also United States v. Washington.

Ann Fulton

BIBLIOGRAPHY

Harmon, Alexandra. *Indians in the Making: Ethnic Relations and Ethnic Identities*. Berkeley: University of California Press, 2000.

Wilkinson, Charles. *Messages from Frank's Landing: A Story of Salmon, Treaties, and the Indian Way*. Seattle, Wash.: University of Washington Press, 2000.

Bronson, Ruth Muskrat

Born in the Delaware District of Indian Territory, Ruth Muskrat Bronson (1897–1982) lived through the Oklahoma statehood movement that dismantled institutions of the Cherokee Nation, broke up the Cherokee land base, and conveyed U.S. citizenship upon western Cherokees. These events profoundly shaped her philosophy as a leader in national Indian affairs. First as a college student and then during her nineteen years with the Education Division of the Office of Indian Affairs, Bronson worked towards empowering a new generation of Indian leaders.

From 1945–1956, Bronson helped build the newly established National Congress of American Indians (NCAI) into an organization of national significance. In 1957 she moved to the Southwest, where she spent the remainder of her life supporting community development projects among the San Carol Apaches and the Tohono O'odhams.

Throughout her lifetime, Bronson insisted that American Indians were entitled to a dual set of rights: their treaty or indigenous rights and their rights as U.S. citizens. Her years with the NCAI best exemplify her efforts to make federal Indian policy and law honor this dual legal status. As an

NCAI officeholder, Bronson spoke out repeatedly against legal and rhetorical assaults on tribal sovereignty and Indian civil rights. Although she worked on behalf of many tribes in these years, two struggles in particular—the Tlingit and Haida land claims in southeast Alaska and the fight to allow Indian tribes the right to hire legal counsel of their own choosing—stand out by virtue of Bronson's extensive commitment to them.

See also *Alaska Natives; Citizenship: United States and State; National Congress of American Indians*.

Gretchen Harvey

BIBLIOGRAPHY

Harvey, Gretchen G. "Cherokee and American: Ruth Muskrat Bronson, 1897–1982." Ph.D. diss., Arizona State University, 1996.

Philp, Kenneth R. *Termination Revisited: American Indians on the Trail to Self-Determination*. Lincoln, Neb.: University of Nebraska Press, 1999.

Brophy, William A.

William Aloysius Brophy (1903–1962) was the thirty-fourth commissioner of Indian affairs, holding the office from 1945 until 1947. He was born in New York City and educated in New York and Chicago. He worked as a clerk on shipping lines before moving to New Mexico and entering the University of New Mexico. He graduated with a law degree from the University of Colorado in 1931. Returning to New Mexico, he served as assistant city attorney in Albuquerque from 1932 until 1934, and then as a special attorney for the Pueblo Indians. In that capacity, he appeared twice before the Supreme Court in *United States v. Santa Fe Railroad Company* (1941) and *Toledo v. Pueblo de Jemez* (1954).

Brophy moved to Washington, D.C., in 1942 to work on Puerto Rican matters. He was appointed commissioner of Indian affairs in March 1945 by President Harry S. Truman. Brophy was ill for most of his term, but he did preside over the reorganization of the Office of Indian Affairs into the Bureau of Indian Affairs. During Brophy's illness, direction of the bureau's work was carried out by his deputy, William Zimmerman Jr. Brophy's health finally failed, and he tendered his resignation on December 31, 1947.

In his retirement Brophy worked on the Commission on the Rights, Liberties, and Responsibilities of the American Indian and voiced his support for compensating tribes for their land claims. He resigned from the commission to become a legal consultant on Indian policy. Brophy had long

campaigned for resources to treat tuberculosis on Indian reservations; ironically, he succumbed to the disease on March 24, 1962.

See also *Commission on the Rights, Liberties, and Responsibilities of the American Indian; Termination and Restoration.*

Justin Corfield

BIBLIOGRAPHY

Fixico, Donald. *Termination and Relocation: Federal Indian Policy 1945–1960*. Albuquerque, N.Mex.: University of New Mexico Press, 1992.

Grossman, Mark. *The ABC-CLIO Companion to the Native American Rights Movement*. Santa Barbara, Calif.: ABC-CLIO, 1996.

Brown, Eddie F.

Eddie Frank Brown (1945–) of the Pascua Yaqui Tribe and Tohono O'odham Nation served as assistant secretary of the Department of the Interior for Indian affairs from June 1989 to July 1993. Brown was nominated for the position by Arizona senator John McCain because of Brown's work directing the Arizona Department of Economic Security and the Bureau of Indian Affairs' Division of Social Service.

As assistant secretary Brown worked to restructure the Office of Indian Education Programs and garner more funding for its work. Brown's administration also established the offices of Gaming, Trust Review, and Audit and Evaluation. As of early 2008, Brown held a position chairing the American Indian Studies program at Arizona State University.

See also *Bureau of Indian Affairs.*

Brian S Collier

BIBLIOGRAPHY

Brown, Eddie F. *Needs Assessment in Indian Communities: A Planning Handbook for Drug Abuse Programs*. Tempe, Ariz.: National Indian Board on Alcoholism and Drug Abuse, 1978.

———, ed. *Capacity Building and Sustainability of Tribal Governments*. St. Louis, Mo.: Kathryn M. Buder Center for American Indian Studies, 2002.

Bruce, Louis R.

Louis Rooks Bruce Jr. (1905–1989), commissioner of Indian affairs from 1969–1973, was known for transforming the Bureau of Indian Affairs (BIA). He grew up on the St. Regis Mohawk reservation and graduated from Syracuse University in 1930. Bruce served as New York State director

for Indian projects for the National Youth Administration and in several other positions before President Richard Nixon appointed him to the position of commissioner of Indian affairs.

Bruce helped found the National Congress of American Indians and advised several presidents. As commissioner, Bruce placed American Indians in top positions within the BIA and made strengthening tribal self-determination and sovereignty his priority. He was blamed for the occupation of the BIA headquarters during the 1972 Trail of Broken Treaties caravan to Washington, D.C., and lost his job soon thereafter. In 1976–1977 he served on the American Indian Policy Review Commission.

See also *American Indian Policy Review Commission; Bureau of Indian Affairs; National Congress of American Indians; Nixon, Richard M.; Self-Determination; Trail of Broken Treaties.*

Sterling Fluharty

BIBLIOGRAPHY

Chaat, Paul, and Robert Allen Warrior. *Like a Hurricane: The Indian Movement from Alcatraz to Wounded Knee*. New York: New Press, 1997.

Brunot, Felix Reville

Felix Reville Brunot (1820–1898) served as a member of the Board of Indian Commissioners (BIC) and was an advocate for the fair treatment of Indians by the U.S. government. Beginning in 1847, Brunot invested in a steel mill and embarked on a career in Christian philanthropy. He served on the Sanitary Commission during the Civil War (1861–1865), as a Sunday school superintendent, and as a trustee of the Philadelphia Divinity School. He fought for temperance and Sabbath legislation, and supported the Christian Amendment Movement in the 1860s. In 1869 Brunot accepted a position on the newly established BIC and participated in the creation of the Grant administration's Peace Policy.

As the second chair of the BIC, Brunot devoted his full attention to Indian affairs. Known as a pragmatist and compromiser, he led the BIC as they traveled to meet with Indian groups, evaluated policy, negotiated treaties, and monitored contractors and government expenditures. Brunot and the BIC supported removal and reservation programs, as well as railroad company efforts to secure right-of-way privileges through Indian lands. The most important functions of the BIC included investigating Indian Office finances and fraud

allegations, and serving as a liaison to the religious organizations that were crucial to Grant's Peace Policy objectives. Brunot waged political battles against Interior Secretary Jacob Cox and Indian Affairs Commissioner Ely Parker as he sought to maintain and expand the BIC's role. However, by 1874 it was clear that the BIC would not be the vehicle for reform that he had anticipated. The board, following Brunot's lead, resigned en masse.

See also *Board of Indian Commissioners (BIC); U.S. Indian Policy: Congress and the Executive, 1845–1877.*

Joseph Genetin-Pilawa

BIBLIOGRAPHY

- Keller, Robert H., Jr. *American Protestantism and United States Indian Policy, 1869–1882*. Lincoln, Neb.: University of Nebraska Press, 1983.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln, Neb.: University of Nebraska Press, 1984.
- Slattery, Charles L. *Felix Reville Brunot*. New York: Longmans, Green, and Co., 1901.

Buffalo

Buffalo—or, more appropriately bison—lived in large numbers on the North American continent until their near extinction in the late nineteenth century. Their habitat was mostly the grasslands of the plains and prairies, but at least temporarily extended into the boreal forests to the north and into the woodlands of eastern North America. Indigenous peoples hunted bison from time immemorial. On the Plains, buffalo became one of the main resources for those who relied on hunting and gathering as well as for agricultural peoples. While early peoples had hunted buffalo herds by stalking individual animals in winter and chasing herds over cliffs (so-called buffalo jumps) or into corrals, the introduction of the horse in the early eighteenth century enabled Plains Indians to stage well-organized horseback buffalo hunts. The significance of the bison as a resource for food, shelter, tools, and many other cultural aspects was paralleled by its significance in Plains Indian cosmologies and religions.

Near Extinction

Early French, Spanish, British, and American travelers and traders encountered and hunted buffalo; however, large-scale hunting (for the supplying of trading posts, for example) was mostly left to Native American groups until the 1850s. Some scholars argue that the combination of the horse and the

commercial hunting by Native groups was already overexploiting the buffalo, and that the bison-centered economy of Plains Indians after the adoption of the horse was not sustainable. While the commercial hunting for, and trade in, buffalo hides by Native groups had grown since the advent of steamboats on the Missouri in the early 1830s, the mass production of bison hides did not occur until the 1870s, when an industrialized tanning method was developed. Buffalo leather was cheap, durable, and elastic. It was used in the burgeoning manufacturing industry as belt material and uniform material for expanding colonial armies. Due to the great demand for buffalo hides, as well as the availability of more powerful rifles after the Civil War (1861–1865), American bison hunters killed millions of buffalo in the 1860s and 1870s. By the early 1880s, the buffalo were at the brink of extinction. Many scholars report that it was these American hunters that brought the end to the bison herds; whether the indigenous hunting would have been unsustainable or not cannot ever be known.

The collapse of the bison population went hand in hand with the subjugation of the last sovereign Plains Indians nations. The consequences of this ecological disaster for Native peoples were very clear to the army commanders, who welcomed them. With their main food source gone, Plains Indians were to become dependent on the United States for assistance, and therefore had to give up their sovereignty. Generals Philip H. Sheridan and William Tecumseh Sherman argued that only an extermination of the buffalo could assure that the Indians would become “civilized.” Colonel Richard I. Dodge is reported to have held the opinion that “every buffalo dead is an Indian gone” (David D. Smits, “The Frontier Army and the Destruction of the Buffalo: 1865–1883,” *The Western Historical Quarterly* [Autumn, 1994]). While there is no evidence of a planned, direct involvement of the army in the near extinction of the bison—it did not give direct orders to buffalo hunters or have its soldiers engage in the enterprise—commanders indirectly supported the commercial hunting by providing protection and sometimes supplying ammunition to the hunters.

Conservation

Between 1871 and 1876, several bills were introduced in Congress to regulate or limit buffalo hunting in order to protect bison from extinction. None of these bills became law. The opposition to these measures came from the two government agencies concerned with Indian policies: the



Buffalo were essential to the Plains Indians' way of life. This George Catlin painting (1835) depicts Sioux Indians on a hunt.

Department of War and the Department of the Interior. Both saw the conservation of bison as opposed to their interests in “civilizing” American Indian nations. The protection of the species thus remained largely a matter of private initiative.

Aside from Yellowstone National Park, two principle herds were built from the remaining few animals, one in Montana and one in South Dakota. Both efforts involved to a large degree Native Americans as initiators. Government actions to protect the buffalo had to wait until the Plains Indian tribes were subjugated. The Yellowstone herd was poached regularly, even after a detachment of the army was sent to protect the park's resources in 1886. In 1908 the National Bison Range was established in the middle of the Flathead Indian reservation in Montana; other federal and state bison reserves followed.

Contemporary Issues

By 2007 there were more than 250,000 bison in the United States, and the conservation of the species was ensured. Since the 1960s, but especially since the farm crisis of the 1980s, buffalo have attracted much interest as an alternative to cattle ranching. Buffalo ranching has become a major part of the economies of Plains states, and many reservations have

started their own bison herds, for both cultural and economic revitalization. Many, but not all, bison ranching tribes are members of the InterTribal Bison Cooperative (ITBC), an umbrella organization with its seat in Rapid City, South Dakota. Buffalo are also attracting interest from environmental groups wanting to re-wild the Plains, and they have become one of the main symbols of the American West.

In Yellowstone National Park, one of the main controversies over bison focuses on brucellosis, a disease that can lead to abortions in cattle. Buffalo, like other large ungulates, can carry the disease. In order to protect its livestock industry, Montana established the policy of killing all bison that crossed from the park into the state in the 1990s. This policy, enforced by organized, large-scale killings of up to one thousand bison per year, outraged the environmental community, as well as some Native American groups. In response to the public outcry over this issue, Montana reinstated individual buffalo hunting in 2005. Joining in this measure are the Nez Perce of Idaho, who hold treaty hunting rights in the area.

In what seemed a major move toward increased tribal sovereignty, the Fish and Wildlife Service (FWS) agreed to share the management of the National Bison Range with the Confederated Salish and Kootenai Tribes of the Flathead

reservation in 2005. The agreement was canceled by the FWS in late 2006, however, due to allegations of harassment of workers by tribal employees and tribal inability to properly manage the reserve. In December 2007 the Department of the Interior ordered the FWS to come up with a new agreement to involve the tribes in the management of the range. In general, tribal bison herds have showcased that tribal governments can manage their own resources.

Sebastian Braun

BIBLIOGRAPHY

- Braun, Sebastian Felix. *Buffalo, Inc. American Indians and Economic Development*. Norman, Okla.: University of Oklahoma Press, 2008.
- Dary, David A. *The Buffalo Book. The Full Saga of the American Animal*. Rev. ed. Athens, Ohio: Ohio University Press, 1989.
- Harkin, Michael E. and David Rich Lewis, eds. *Native Americans and the Environment. Perspectives on the Ecological Indian*. Lincoln, Neb.: University of Nebraska Press, 2007.
- Hornaday, William Temple. *The Extinction of the American Bison*. Washington, D.C.: Smithsonian Institution Press, 2002 [1889].
- Isenberg, Andrew C. *The Destruction of the Bison*. Cambridge, Mass.: Cambridge University Press, 2000.
- Krech, Shepard, III. *The Ecological Indian: Myth and History*. New York: W. W. Norton, 1999.
- Roe, Frank Gilbert. *The North American Buffalo: A Critical Study of the Species in Its Wild State*. Toronto: University of Toronto Press, 1951.
- Rorabacher, J. Albert. *The American Buffalo in Transition: An Historical and Economic Survey of the Bison in America*. Saint Cloud, Minn.: North Star Press, 1970.
- Smits, David D. "The Frontier Army and the Destruction of the Buffalo: 1865–1883." *The Western Historical Quarterly*, vol. 25, no. 3 (Autumn 1994): 313–338.

Buffalo Soldiers

The Buffalo Soldiers were former slaves, freedmen, and black Civil War soldiers who fought for the U.S. Army in the nineteenth and twentieth centuries. They played a prominent role in the nineteenth-century United States-Indian Wars (1848–1891), charged side-by-side with Teddy Roosevelt's Rough Riders up San Juan and Kettle hills during the Spanish-American War (1898), and rode into Mexico with General John J. Pershing in pursuit of Mexican bandit and revolutionary Pancho Villa.

Over 180,000 African Americans served in the military during the Civil War (1861–1865), and based on their loyal and effective service, the postwar army continued to enlist black men. An act of Congress in 1866 created six all-black army units: the 9th and 10th cavalries and the 38th, 39th, 40th, and 41st infantry regiments. In 1869 a reorganization of the army consolidated the four infantry regiments into

the 24th and 25th infantries. The approximately five thousand black soldiers who served in the four Buffalo Soldier units comprised over ten percent of the entire nineteenth-century army.

The origin of the nickname "Buffalo Solider" is unclear. A number of explanations have been put forth, but the only certain fact is that Native Americans first came up with the term. Various Plains Indian tribes, for example, referred to black soldiers as buffalo soldiers because the ferocity of their fighting and the bravery they demonstrated in battle reminded the Indians of a buffalo's fighting spirit. Another explanation suggests that Natives likened the hair of African American soldiers to a buffalo's mane.

Buffalo Soldiers guarded railroads and wagon trains, constructed and repaired buildings, installed telegraph lines, protected railroad property from striking workers, and tracked down cattle rustlers and outlaws. Their most notable duty, however, was fighting Native Americans. Despite the fact that African Americans were also treated as second-class citizens by white society, the Buffalo Soldiers took an active role in dispossessing Native Americans of their land for the benefit of white settlers. Buffalo Soldiers, for example, participated in the defeat of Victorio and Nana's Warm Springs Apaches, the Utes of Southern Colorado, the Chiricahua Apaches led by Geronimo and Mangus, and the Cheyenne and Comanche Indians of the Great Plains. In their final encounter with Native Americans, Buffalo Soldiers of the 9th Cavalry were sent to Pine Ridge in the aftermath of the Wounded Knee Massacre in December 1890 to reinforce the beleaguered 7th Cavalry.

Buffalo Soldiers proved to be among the most reliable and productive soldiers in the frontier army. Despite receiving lower pay and inferior equipment, and being assigned to remote and oftentimes dangerous posts, black regiments had the lowest desertion rates, fewest courts-martial, and the most reenlistments. More than a dozen Buffalo Soldiers were awarded the Congressional Medal of Honor during the United States-Indian Wars. Notable Buffalo Soldiers included Lieutenant Henry O. Flipper, the first African American to graduate from West Point, and fellow West Pointer Charles Young, who served during the Indian Wars and the Spanish-American War.

Although the service of Buffalo Soldiers was largely ignored before the 1970s, in recent years they have been immortalized in books, movies, and music. Reggae artist Bob Marley, for example, had a hit with his song "Buffalo Soldiers" in the early 1980s. The U.S. Postal Service honored

the Buffalo Soldiers with a commemorative stamp in 1994. Fittingly, a Buffalo Soldiers National Museum was founded in Houston, Texas, in 2000, and in 1992 General Colin Powell dedicated a memorial to the Buffalo Soldiers at Fort Leavenworth, the original home of the 10th Cavalry.

See also *Army, United States; Civil War; Geronimo; United States–Indian Wars (1848–1891); Wounded Knee Massacre (1890).*

Mark R. Ellis

BIBLIOGRAPHY

- Billington, Monroe Lee. *New Mexico's Buffalo Soldiers, 1866–1900*. Niwot, Colo.: University Press of Colorado, 1994.
- Kenner, Charles L. *Buffalo Soldiers and the Officers of the Ninth Cavalry, 1867–1898*. Norman, Okla.: University of Oklahoma Press, 1999.
- Leckie, William H. *The Buffalo Soldiers: A Narrative of the Black Cavalry in the West*. Norman, Okla.: University of Oklahoma Press, 2003.

Bureau of Indian Affairs (BIA)

In the late eighteenth century, United States Indian policy was operated directly out of the War Department, but beginning in the early nineteenth century, the government began slowly formalizing and expanding a specialized bureaucracy to manage relations with the American Indian tribes. As it did so, the federal government began to assume more control over internal tribal affairs.

The U.S. government employed both treaty-making and military aggression to achieve its aims of acquiring tribal territory and establishing peace and order on its borders. In many treaties of the early 1800s, schools, blacksmith shops, agricultural implements, sawmills, health care, or other provisions were included as payment for land cessions. Often the fulfillment of these promised provisions required federal involvement within tribal areas. With this shift, the U.S. Congress began asserting its authority over tribal citizens, and by 1819 it had enacted a permanent fund to “civilize” tribal individuals. The civilization fund permitted the executive department to employ instructors to teach European agricultural methods to adult tribal citizens and the skills of math, reading, and writing in the English language to tribal children. These functions became the core responsibilities of the emerging Office of Indian Affairs (OIA), as the Bureau of Indian Affairs (BIA) was known until 1947.

Establishment

Secretary of War John C. Calhoun on March 11, 1824, established what he called a “bureau of Indian affairs” charged

with supervising federal Indian issues and activities. The first director of the new bureau, Thomas L. McKenney, had served as superintendent of Indian trade. He referred to the new organization as the Office of Indian Affairs, and the organization was variously referred as the Indian office, the Indian bureau, and the Indian department for the next century.

The new office did not have congressional approval at the time it was created by Calhoun. However, in 1832 Congress authorized the president to appoint a commissioner of Indian affairs with the mandate to oversee all federal Indian matters. Two years later, Congress sought reform of the Indian agent system because of concerns about irresponsibility, inefficiency, and waste of resources. Under the 1834 statute, official agents and other positions were established under the authority of the commissioner of Indian affairs. Another provision established Indian preferences for employment in the bureau.

Expansion and Functions

In 1849 Congress relocated the OIA from the War Department to the newly established Department of the Interior. The mandate for the Department of the Interior included oversight of land and resource management, territorial affairs, wildlife conservation, and federal Indian affairs. The highest official of the department—the secretary of the interior—was a presidential appointee.

Within the Department of the Interior, the OIA continued to serve as the primary vehicle for implementing federal Indian policy. The two major functions of the OIA throughout its history have been characterized as: “(1) to help Indians adjust to the society that gradually surrounded and engulfed them, or to help them live in the presence of that society on a self-sufficient basis, and (2) to exercise trust responsibility for Indian land and resources as long as that was required by law” (Theodore Taylor, *The Bureau of Indian Affairs*, 1984).

The second function derived from treaty obligations and federal laws that created a guardian-ward relationship between the United States and the Indians, with the federal government holding the power over tribal assets and resources. Throughout the history of the agency, the bureau has been severely criticized for mismanagement of those assets and resources and for failing to adequately meet the needs of tribal citizens.

With the passage of a federal law in 1837 directing that all tribal proceeds from land sales be placed in the U.S. Treasury, the OIA assumed the role of federal accounts



The Mashpee Wampanoag tribe gained federal recognition from the Bureau of Indian Affairs. Massachusetts governor Deval Patrick congratulates a member of the tribe on a visit to its headquarters in May 2007.

manager for tribal nations and individual tribal citizens. Furthermore, the services owed to Indian nations by treaty provisions were increasingly paid for from tribal funds held by the OIA. By 1858 U.S. Indian policy had moved toward restructuring Native communities into controlled concentrations on reservations under the strict authority of Indian agents. The reservation system resulted in certain tribal lands being deemed as “surplus,” which led to greater tribal land sales. Remaining reservation lands were intended to be allotted as individual tribal agricultural plots. All of these activities required the supervision of the OIA through a system of Indian agents overseeing reservation residents.

For a brief period after the Civil War (1861–1865), the Indian office allowed religious groups to nominate superintendents for Indian agencies and carry out educational services guaranteed in treaty provisions. By the 1880s, however, religious groups were no longer permitted to nominate superintendents due to the rivalries between different denominations. However, the churches still remained involved in the government schools. The U.S. Army was also heavily involved with the reservation system, and the government ensured that a strong military presence remained on or near tribal lands.

In 1871 Congress passed an appropriations bill with a rider by Congressman Henry Dawes that ended the official policy of treaty making with tribal nations, although the government continued to enter into similar negotiated

agreements with tribes. These new agreements required the approval of both houses of Congress or an executive order to enter into force. The 1871 law explicitly provided that the ongoing obligations incurred by the U.S. government under prior treaties were to be continued.

As federal law making moved towards general comprehensive enactments rather than separate negotiations with the tribes, the OIA’s role in internal tribal matters enlarged to implement the new federal statutes. The number of Indian service employees increased from 108 in 1852 to 1,725 in 1888 and were located in the Washington, D.C., headquarters and in field offices across the country. By 1872 field employees included personnel in all manner of occupations and industries, from plow makers to shoemakers to teachers to physicians. The number of Indian service employees continued to increase over time as U.S. Indian policy intruded further into tribal territories.

Allotment

A major federal legislative enactment that transformed the responsibilities of the OIA was the General Allotment Act of 1887, commonly known as the Dawes Act, which provided for the dividing up of tribal lands into plots then awarded to individual Indians. President Theodore Roosevelt was quoted during this time as stating that “[t]he General Allotment Act is a mighty pulverizing engine to break up the tribal mass. It acts directly upon the family and the individual” (Charles F. Wilkinson, *American Indians, Time, and the Law: Native Societies in a Modern Constitutional Democracy*, 1987). Under the terms of the Dawes Act, the individual parcels of land were placed into a restricted category known as a “trust status” under the administration of the U.S. government. The OIA held management authority over all lands held in trust status on behalf of individual tribal citizens or tribal nations. Adding to its role as account manager, the Dawes Act required OIA employees to serve as land managers, leasing agents, and lease payment disbursement clerks. These increased responsibilities required the office to once again expand its administrative structure.

With the implementation of allotment, the OIA added personnel such as irrigation engineers, land surveyors, probate attorneys, and inheritance examiners. After tribal land areas were allotted, remaining lands were declared surplus by U.S. officials, who decided on a price to pay the tribal owner for their purchase. The U.S.-purchased lands were then held as public federal lands or sold to American settlers or commercial interests. Proceeds from these sales were deposited

with the U.S. Treasury and administered by the OIA throughout this era.

The allotment era was also marked by a determined effort by the OIA to prepare Native children for assimilation. As early as 1870, the federal government had contracted with Christian organizations to manage educational institutions for tribal children. Federal monies were appropriated for these church-run schools until 1901 when they were replaced by tribal funds. In addition, in 1879 the OIA began to operate off-reservation boarding schools that attempted to distance Native children from their tribal culture and affiliation. School attendance was enforced through cruel methods such as withholding food rations for entire families if children failed to enroll. Harsh punishments, including beatings, for acts such as speaking tribal languages were inflicted on Native children at OIA boarding schools.

The assimilation policy was fueled by Congress's assertion of the plenary (complete) power doctrine over the tribes. From around 1880 until approximately 1930, the OIA's intrusive supervision reached its peak. Native Americans were renamed by federal service officials, tribal citizens were punished by Indian agents for engaging in cultural practices such as dances and spiritual ceremonies, and every attempt was made to impose Euro-American standards of dress, speech, and action upon tribal peoples.

The OIA Indian agents were the embodiment of the federal plenary powers on tribal lands and held absolute authority over disbursement of funds, allotment of lands to individuals, and the doling out of rations to families. The Indian agents had the support of the U.S. military to carry out these broad powers, and often military forts were located in close proximity to tribal reservations. The OIA established courts of Indian offenses (commonly called Code of Federal Regulations courts or CFR courts) beginning in 1883. Native citizens were prosecuted in CFR courts for practicing tribal dances and customs. By 1911 the OIA had in its employ approximately six thousand persons carrying out the many functions of overseeing practically every aspect of tribal life. Almost half of those employees were working in the federally run educational institutions for tribal children.

In 1920 Congress approved of the office's implementation of assimilation policies by enacting the Snyder Act, which provided the OIA with authority to manage federal appropriations "for the benefit, care and assistance of the Indians throughout the United States." In Laurence Schmeckebier's 1927 book, *Office of Indian Affairs: Its History,*

Activities, and Organization, the author set forth descriptions of the functions and structure of the OIA at the time. Schmeckebier identified the bureau's functions to include: distribution of property; the promotion of agriculture and stock raising; supervising land; allotting land; the sale and leasing of land; issuing patents in fee and certificates of competency; granting rights-of-way and easements; construction of drainage systems, waterways, and irrigation systems; administration of forest lands; controlling Indian traders; custody of tribal government and individual tribal member monies; education; promoting of home economics; supervision of attorney contracts; suppressing traffic in liquor on tribal lands; furnishing medical care; and other aspects of tribal community needs.

In the late 1920s, several investigations were launched to determine the effectiveness of the OIA, the most influential of which was the *Meriam Report* (1928). The *Meriam Report* condemned the allotment program and the efforts to use the program to assimilate Native Americans. The report also described in detail the poverty-stricken existence of many tribal citizens and the deplorable conditions imposed upon tribal children in poorly funded and inadequately managed federal boarding schools. The *Meriam Report* provided graphic evidence of just how badly the federal government's Indian "wards" were being treated. Poverty was rampant on the reservations, with per capita income at less than \$200 a year at a time when national annual earnings averaged \$1,350. The report found that health services on reservations were inadequate. Infant mortality on Indian reservations, for example, was found to be nearly three times that of European-descended Americans. Large numbers of Indians were dying from tuberculosis, trachoma, measles, and other diseases that had been largely erased in mainstream society. The average life span among Indians, the report stated, was forty-four years.

The New Deal

Due to the *Meriam Report's* detailed descriptions, outraged advocates for tribal peoples called for reforms to federal Indian policy and the OIA. Shortly after the issuance of the report, a new U.S. president, Franklin D. Roosevelt, was elected. He appointed John Collier, a proponent of tribal issues, as commissioner of Indian affairs to address the problem of Native mistreatment. Following Collier's appointment, the Democratic Congress passed the Indian Reorganization Act (IRA) of 1934. The IRA improved the economic situation of tribal citizens by immediately halting

the policy of allotment and indefinitely extending the trust status of allotments held by the federal government.

One of the most significant impacts of the IRA was its emphasis on tribal self-government through the adoption of tribal charters and constitutions. OIA officials drafted model constitutions to be adopted by tribes that would reorganize them into structures resembling municipal governments. Although the tribal constitutions continued to impose many of the restrictions the Indian bureau had placed on tribal leadership, the resultant federally recognized tribal governments provided a means to improve the economic conditions and quality of life for tribal citizens generally.

Some resistance to IRA constitutions emerged from OIA officials who were hostile to the empowerment of tribal governments. Despite their concerns, the Indian office's role in tribal affairs continued to be a considerable one even after the adoption of tribal constitutional forms of limited government. In later years, some Native activists would argue that tribes were coerced into signing IRA constitutions and that the forms of government were simply another, more subtle, form of federal paternalism.

Contemporary Organization

The name of the office was officially changed to the Bureau of Indian Affairs in a 1947 reorganization. By that time the office had developed into a complex bureaucracy with twelve regional offices, almost one hundred agencies and field offices, and thousands of employees. The bureau currently has an agency office headed by a superintendent located on each Indian reservation. The BIA has divided Indian Country into twelve service regions: Alaska (excluding part of the Northwest Region); Eastern (including Alabama, Connecticut, Florida, Louisiana, Maine, Mississippi, New York, North Carolina, and South Carolina); Midwest (including Iowa, Michigan, Minnesota, and Wisconsin); Great Plains (including Nebraska, North Dakota, and South Dakota); Southern Plains (including Kansas, Texas, and Western Oklahoma); Eastern Oklahoma; Rocky Mountain (part of Montana and Wyoming); Southwest (including Colorado and part of New Mexico); Western (including Nevada, Utah, and part of Arizona); Navajo (part of Arizona and part of New Mexico); Northwest (including part of Alaska and part of Montana, Idaho, Oregon, and Washington); and Pacific (California). The regional offices each have a director who oversees the individual agency offices.

The headquarters for the BIA has remained in the Department of the Interior in Washington, D.C. In 1977 the

position of assistant secretary of Indian affairs was created to replace the lower-ranking former commissioner of Indian affairs position. The secretary of the interior appoints the assistant secretary of Indian affairs, who is responsible for the daily administration of duties for the BIA and the oversight of the regional directors.

Tribal Membership Requirement and Indian Preferences

The BIA plays an active role in determining who is considered an "Indian" and thus receives bureau services. To receive services, tribal peoples must meet certain guidelines for federal recognition of tribal membership. During the allotment era, federal rolls were created to determine who should receive parcels of land. U.S. officials established these rolls, often incorrectly noting individual names, omitting names of tribal citizens, failing to correctly identify family members, and renaming tribal citizens. These federal rolls, referred to as the Dawes rolls, have become the standard basis for proving tribal membership in a federally recognized tribe. After the passage of the IRA in 1934, the standard constitutions adopted by many tribal governments contained provisions for tribal enrollment based upon proving lineage to the Dawes rolls.

Furthermore, the U.S. incorporated into both treaty agreements and federal laws blood quantum standards for proof of tribal membership to receive treaty payments and all subsequent federal services owed. Historically, the BIA has required individuals to provide documentation of lineage to establish whether the individual met the threshold blood quantum in a federally recognized tribe. Often the minimum requirement of possessing one-fourth "Indian blood" has been necessary to receive services such as higher education loans and grants. Proactive tribal governments have modified their enrollment standards to lower blood quantum requirements or accept a lesser proof of lineal descendancy. In some instances, the BIA will deliver services to tribal members enrolled in these tribes. For example, receipt of BIA financial and social services requires enrollment in any federally recognized tribe, except for Alaska Natives where the standard is one-fourth or more degree of Indian blood accompanied with U.S. citizenship.

Indian preferences for employment in the Bureau of Indian Affairs were set by federal law in the provisions of the 1934 IRA. An applicant seeking to qualify for Indian preference for a BIA position must provide proof of Indian descent through one of the following: (1) being a member

of a federally recognized tribe currently under federal jurisdiction; (2) being a descendant of tribal members who were residing within the present boundaries of an Indian reservation on June 1, 1934; (3) having one-half or more Indian blood from a tribe indigenous to the U.S.; or (4) being an Eskimo or other aboriginal person of Alaska.

In the 1970s a group of non-Indian BIA employees brought a class action suit challenging the Indian preference provision as violating the 1972 Equal Employment Opportunity Act and as constituting racial discrimination. The U.S. Supreme Court ruled unanimously in *Morton v. Mancari* (1974) that the Indian preference law did not constitute a racial qualification; rather, the Court said, it was a legitimate rational method of furthering the goal of Indian self-government and was based on the historical political relationship between the U.S. and tribal nations.

Tribal Self-Determination

In the late 1960s and early 1970s, a Native American protest and resistance movement developed that attempted to raise national awareness about how poorly the U.S. government had treated Indians over the previous two centuries. Native protestors, for example, occupied Alcatraz Island for months in 1969–1971, and in 1972 groups of Native activists traveled from all over the country to Washington, D.C., to conduct a protest. After negotiations about lodgings fell apart, the protestors seized and ransacked the bureau offices. The bureau had become—and remains, for many Indians—a symbol of all the pain inflicted upon Natives by the United States government.

As a result of Native activism in the 1970s, the dependency of tribal governments on BIA programs and services lessened to a considerable degree with the passage of the 1978 Indian Self-Determination and Education Assistance Act (ISDEAA). With the act, the United States committed itself to a policy of supporting self-determination for tribal governments. Rather than serving as the federal director of all aspects of tribal life, the BIA's role became more focused on the ongoing management of lands held in trust, the operation of a limited number of government-run schools and colleges, the administration of inherently federal functions, and service as a conduit for federal funds and a supervising agency for federally transferred programs.

The ISDEAA permitted tribal governments to assume operational oversight of community programs formally operated by the federal government by entering into contracts and receiving grants. The BIA retains ultimate finan-

cial and managerial authority, but tribal governments have control over local implementation of programs. This is commonly referred to as the “638 contract” process, named after the public law number. While entering into 638 contracts has led to more intense federal regulation and reporting requirements for those tribal governments operating under this system, it has also provided greater operational autonomy and efficiency in meeting the needs of Native citizens.

Under Title III of the ISDEAA, a pilot project for self-governance was introduced which allowed tribal governments to fully assume control of BIA programs and services without ultimate federal oversight. Tribal nations seeking significant autonomy from the BIA have utilized these self-governance provisions to contract administrative and management costs of programs and have simply received funding amounts from the BIA to fully operate programs. In 1994 the ISDEAA was amended to include Title IV, which permanently established the Tribal Self-Governance Program. According to the 2001–2004 Department of Interior report entitled *Strengthening the Circle: Interior Indian Affairs Highlights*, by entering into a self-governance compact, tribes “can efficiently plan, conduct, consolidate, and administer programs, services, functions and activities for tribal citizens according to priorities established by their tribal governments, and as a consequence, can reprioritize funding and redesign programs.”

The Early Twenty-first Century

In 2004 the BIA reported that it had provided funding and services to “more than 1.5 million American Indians and Alaska Natives in 31 states in three ways—directly, through self-determination contracts and grants, and through self-governance compact agreements with tribes.” “Over 450 federally recognized tribes,” the bureau noted, “have self-determination contracts or self-governance compacts with BIA and receive annually over \$650 million in funding to provide services to other citizens” (U.S. Department of Interior, *Strengthening the Circle: Interior Indian Affairs Highlights*, 2001–2004). These figures demonstrate that tribal nations have seized the opportunity to administer community services and programs that reestablish local control of tribal affairs.

In spite of the large number of tribally contracted programs, the BIA continues to have an active role in Native programs and services. In the area of education, the 2001–2004 Interior Department report notes that the BIA oversees “an educational system across 23 states on 63 Indian

reservations that is composed of 184 elementary, middle, and high schools; 2 BIA-operated postsecondary institutions; and 26 tribal colleges and universities.” Of the federal dollars committed to Indian education, approximately 98 percent reaches the schools and the tribal leadership that manages the contracts and grants to operate the schools. With regards to the oversight of postsecondary education, the BIA has implemented specific training initiatives in response to tribal community needs. Some examples of this are the BIA’s Forestry Cooperative Education program, which places interested students in employment positions with tribes and BIA-related forestry programs; the Water Resources Technical Training program offered at New Mexico State University in Las Cruces; and the Records Management Program established at the Haskell Indian Nations University.

In terms of law enforcement, the BIA’s Office of Law Enforcement and Security (OLES) has responsibility for providing patrols, investigations, and detention services on tribal lands. The BIA operates the Indian Police Academy in Artesia, New Mexico, which certifies officers from across the country to work on tribal lands. Among the initiatives carried out by the 206 law enforcement programs (divided into six districts) are the Drug Abuse Resistance Education program (DARE), the Gang Resistance Education and Training program (GREAT), traffic safety initiatives, drug and alcohol trafficking prevention, and programs for the prevention of arson.

Economic development and a return to former prosperity has been a priority for tribal nations, and the BIA has established programs aimed at assisting them in rebuilding their economies. One such effort is the provision of guaranteed and insured loans for eligible tribes and businesses owned by individual Indians. Another BIA initiative is the exploration and development of oil, gas, and coal deposits located on tribal lands. BIA consultants provide technical assistance in areas such as wind energy, power production, and renewable energy projects. One of the oldest components of the BIA’s supervision of tribal industry is its forestry program. According to the Department of the Interior, from 2001–2004 the Indian forestry program harvested enough lumber to build over thirty thousand residential homes each year.

Of paramount importance to tribal nations is the trust responsibility that the U.S. assumed through creation of the “plenary power doctrine” and by creating the trust status for tribal lands held on behalf of tribes and individuals by the U.S. government during allotment. In 1994 Congress estab-

lished the Office of Special Trustee for American Indians and tasked it to seek ways to improve the secretary of the interior’s abilities to discharge the government’s trust responsibilities. Those trust functions assigned to the Office of Special Trustee (OST) are carried out by officers reporting directly to the special trustee. The approximate acreage subject to trust management by the BIA is fifty-six million acres to date. The bureau manages an estimated 100,000 leases on trust lands for both tribal individuals owning more than ten million acres and tribes owning close to forty-five million acres. According to a governmental report, in 2003 “the trust collected revenues from leasing, use permits, sales, and interest of approximately \$195 million for 240,000 individual Indian money (IIM) accounts, and approximately \$375 million for 1,400 tribal accounts.” The report also stated that “The trust also manages approximately \$2.9 billion in tribal funds and \$400 million in individual Indian funds” (Department of the Interior, *Strengthening the Circle*, 2001–2004).

Within the BIA’s fiduciary trust programs are services intended to provide technologically accessible accounting of BIA records. In 2004 the American Indian Records Repository was opened in Lenexa, Kansas, to provide proper record consolidation and archiving. In addition, the BIA is actively working on the electronic indexing of all BIA and OST records in an electronic database. Other services include a plan for historical accounting of IIM accounts following the *Cobell v. Babbitt (Cobell I)* case in 1998, during which an accounting of 300,000 tribal individual accounts was requested after the BIA failed to adequately account for an estimated \$137.5 billion held under its authority since 1887.

To remedy some of the ills of the allotment era, the BIA has sought to improve the management of trust assets which are susceptible to the problem of fractionation. The issue of heirship was not properly taken into consideration with the passage of the Dawes Act, nor were allottees prepared for the legal consequences for their land parcels upon their deaths. As a result, allotted parcels were often inherited by multiple heirs, which led to numerous problems. According to the Interior Department’s 2001–2004 report, *Strengthening the Circle*: “Today, there are approximately 3.2 million owner interests in the 10 million acres of individually owned trust lands—a situation whose magnitude makes management of trust assets extremely difficult and costly. These millions of interests will continue to expand, unless an aggressive approach to alleviating fractionation is taken.”

On September 8, 2000, then-assistant secretary of Indian affairs Kevin Gover, a member of the Pawnee tribe of Oklahoma, spoke on the 175th anniversary of the establishment of the Bureau of Indian Affairs. In his remarks, he issued an apology on behalf of the BIA for the misdeeds and wrongs perpetrated by the agency since its founding days as the Office of Indian Affairs. He said: "So many of the maladies suffered today in Indian Country result from the failures of this agency. Poverty, ignorance and disease have been the product of this agency's work" ("Remarks at the Ceremony Acknowledging the 175th Anniversary of the Establishment of the Bureau of Indian Affairs," *American Indian Law Review*, vol. 25, 2000–2001).

In contemporary times, the BIA is still very much involved in tribal life through trust management of tribal assets, education services from preschool to postsecondary levels, oversight of tribal and BIA law enforcement in Indian Country, and administration of economic initiatives and loan programs. It also continues to provide services promised under the treaties entered into between the United States and tribal nations.

See also *Allotment in Severalty; Assimilation and Acculturation; Blood Quantum; Calhoun, John C.; Civilization Program; Collier, John; Commissioner of Indian Affairs; Courts of Indian Offenses; Dawes, Henry L.; Education: Boarding Schools; Forestry; General Allotment Act (Dawes Act) of 1887; Indian Agents; Indian Police Forces; Indian Preference Act of 1934; Indian Removal Act of 1830; Indian Reorganization Act of 1934; Indian Self-Determination and Education Assistance Act; McKenney, Thomas L.; Meriam Report; Morton v. Mancari; Oil and Gas; Relocation Program; Removal; Reservations; 638 Contracts; Treaties: Historical Overview; Treaty Substitutes: Agreements and Executive Orders; Tribal Citizenship; Trust Responsibility Doctrine; U.S. Indian Policy: Congress and the Executive, 1803–1848; U.S. Indian Policy: Congress and the Executive, 1845–1877; U.S. Indian Policy: Congress and the Executive, 1871–1934; U.S. Indian Policy: Congress and the Executive, 1928–1946; U.S. Indian Policy: Congress and the Executive, 1960–*

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BIBLIOGRAPHY

- Cohen, Felix S. *On the Drafting of Tribal Constitutions*. Norman, Okla.: University of Oklahoma Press, 2007.
- Deloria, Vine, Jr., and Clifford Lytle. *American Indians, American Justice*. Austin, Tex.: University of Texas Press, 1983.
- . *Nations Within: The Past and Future of American Indian Sovereignty*. New York: Pantheon, 1984.
- Gover, Kevin. "Remarks at the Ceremony Acknowledging the 175th Anniversary of the Establishment of the Bureau of Indian Affairs." *American Indian Law Review*, vol. 25 (2000–2001): 161–163.
- Hill, Edward E. *The Office of Indian Affairs, 1824–1880: Historical Sketches*. New York: Clearwater Publishing Company, 1974.
- Kvasnicka, Robert M., and Herman J. Viola, eds. *The Commissioners of Indian Affairs, 1824–1977*. Lincoln, Neb.: University of Nebraska Press, 1979.
- McCarthy, Robert. "The Bureau of Indian Affairs and the Federal Trust Obligation to American Indians." *Brigham Young University Journal of Public Law*, vol. 19 (2004): 1–160.
- McDonnell, Janet A. *The Dispossession of the American Indian, 1887–1934*. Bloomington, Ind.: Indiana University Press, 1991.
- Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005.
- Panoff, Thomas V. "Legislative Reform of the Indian Trust Fund System." *Harvard Journal on Legislation*, vol. 41 (Summer 2004): 517–540.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Taylor, Theodore W. *The Bureau of Indian Affairs*. Boulder, Colo.: Westview Press, 1984.
- U.S. Department of Interior. Bureau of Indian Affairs. *Strengthening the Circle: Interior Indian Affairs Highlights*. Washington, D.C.: Government Printing Office, 2001–2004.
- Viola, Herman J. *Thomas L. McKenney: Architect of America's Early Indian Policy, 1816–1830*. Chicago, Ill.: Swallow Press, 1974.
- Wilkins, David E., and K. Tsianina Lomawaima. *Uneven Ground: American Indian Sovereignty and Federal Law*. Norman, Okla.: University of Oklahoma Press, 2001.
- Wilkinson, Charles F. *American Indians, Time, and the Law: Native Societies in a Modern Constitutional Democracy*. New Haven, Conn.: Yale University Press, 1987.

Burke, Charles H.

Charles H. Burke (1861–1944) served as a Republican member of the House of Representatives from South Dakota from 1899 to 1907, and 1909 to 1915, and was the commissioner of the Office of Indian Affairs (OIA) from 1921 to 1929. Burke was born in Batavia, New York, but moved to the Dakota Territory in 1882.

As a congressman, Burke supported the Dawes Act or the General Allotment Act of 1887, under which an Indian could be granted U.S. citizenship upon accepting an allotment of land and a twenty-five-year period of the federal government holding the land in trust. In 1906 he sponsored the Burke Act, which provided that the Indian who received an allotment did not become a citizen until the end of the trust period, gave the secretary of the interior the discretion to end the trust period early for any Indian deemed competent to manage their own affairs, and brought allotted Indian lands under the jurisdiction of federal, rather than state, law.

In 1921 President Warren G. Harding appointed Burke to head the Office of Indian Affairs (OIA), where his tenure was controversial. Burke was unable to persuade Congress to

provide the necessary funds to expand health and education programs for Indians. He commissioned the American Red Cross to complete a study on the problems involved in Indian health care, but suppressed its publication in 1924 because it was critical of the OIA.

Burke came under fire from reformers because of his position on the Pueblo Indian lands controversy. The legal status of the Pueblo peoples' title to their lands was complicated by several issues, some going back to the time of the United States–Mexico War (1846–1848). While New Mexico was a territory, non-Indian individuals had purchased or claimed to have otherwise obtained title to Pueblo lands. When New Mexico became a state, there was concern to settle the issue of the legal status of these titles. Burke supported the Bursum Bill, an act introduced in 1922 by New Mexico senator Holm O. Bursum, which aimed to settle the issue. Critics charged, however, that the Bursum Bill favored non-Indian claimants and put the burden of proving title on the Indians. Because of the pressure brought by reformers, the Pueblo Indian Lands Act, a compromise measure favorable to most of the interest groups on both sides of the issue, passed in June 1924.

Burke sought to stamp out Indian dances and other practices connected with their traditional lifestyles and religions. Older, pro-assimilationist reform groups, such as the Indian Rights Association, generally supported this policy, but newer, less ethnocentric groups, like those led by John Collier, scorned it. Burke focused on the fact that the dances and ceremonies occupied time when the Indians should be working to advance their economic well-being. He also criticized practices such as potlatches and “give aways” which seemed to undermine the efforts to teach the Indians the virtues of hard work and self-sufficiency.

It was during Burke's tenure as head of the OIA that Congress passed the Snyder Act (1924), granting U.S. citizenship to all Indians. While Burke supported this bill, he played no major role in getting it approved.

Reformers such as Collier continually criticized Burke over the issue of religious freedom, the use of off-reservation boarding schools, and the conditions among the nonreservation Indians in Oklahoma. Shortly after taking office in 1929, President Herbert Hoover asked Burke to resign.

See also *Assimilation and Acculturation; Bureau of Indian Affairs; Burke Act of 1906; Bursum Bill (1921); Collier, John; General Allotment Act (Dawes Act) of 1887; Pueblo Lands Act.*

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BIBLIOGRAPHY

- Kelly, Lawrence C. “Burke, Charles H. 1861–1944.” In *Handbook of North American Indians, Volume 4: History of Indian-White Relations*, vol. 4, edited by William C. Sturtevant, 664. Washington, D.C.: Smithsonian Institution, 1988.
- . “Charles Henry Burke, 1921–1929.” In *The Commissioners of Indian Affairs, 1824–1977*, edited by Robert M. Kvasnicka and Herman J. Viola, 251–257. Lincoln, Neb.: University of Nebraska Press, 1979.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.

Burke Act of 1906

The Act of May 8, 1906, also known as the Burke Act, modified two provisions of the General Allotment Act (Dawes Act) of 1887, which provided for the division of communal Indian lands into individual parcels. First, it postponed citizenship for a recipient of a land parcel until he received fee patent, or complete title, to an allotment rather than conferring it when an allotment was first approved. Second, it authorized the U.S. secretary of the interior to issue a fee patent to “any Indian allottee [who] is competent and capable of managing his or her affairs” before the normal twenty-five year trust period on an allotment expired.

In promoting this legislation, South Dakota representative Charles Burke sought to address the fact that the Dawes Act allowed Indians to become citizens while their lands were still held in trust. In *Matter of Heff* (1905), a case involving sale of alcohol to an allotted Indian, the U.S. Supreme Court determined that an allotted Indian was a citizen rather than a ward of the government and thus not subject to federal laws regulating alcohol sales to Indians. The Burke Act addressed this situation by keeping both Indians and allotments under federal jurisdiction until an allottee received a fee patent.

The Burke Act did not specify what constituted competency. For the first two years following the act's passage, superintendents recommended who was certified competent. In 1909 Commissioner of Indian Affairs Robert G. Valentine created the first commission to assess competency. Secretary Franklin K. Lane and Commissioner Cato Sells expanded the use of such commissions during the 1910s, conveying fee patents to large numbers of Indians. Most of the Indians who received fee patents under the Burke Act sold their lands, for a variety of reasons. Many were swindled out of their allotments by dishonest speculators.

See also *Burke, Charles H.; General Allotment Act (Dawes Act) of 1887.*

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BIBLIOGRAPHY

- Debo, Angie. *And Still the Waters Run: The Betrayal of the Five Civilized Tribes*. Princeton, N.J.: Princeton University Press, 1940.
- Hoxie, Frederick E. *A Final Promise: The Campaign to Assimilate the Indians, 1880–1920*. Lincoln, Neb.: University of Nebraska Press, 1984.
- McDonnell, Janet. *The Dispossession of the American Indian, 1887–1934*. Bloomington and Indianapolis, Ind.: Indiana University Press, 1991.

Bursum Bill (1922)

During the early 1900s, Pueblo Indians attempted to recover their land holdings from white squatters and Hispanic farmers who had encroached on their territory. With the support of President Warren G. Harding and Secretary of the Interior Albert B. Fall, U.S. senator Holm O. Bursum of New Mexico proposed legislation in July 1922 that was designed to counter the Pueblos' effort by granting non-Indian claimants titles to the disputed land holdings and water rights within the region. Known as the Bursum Bill, the legislation would have also established permanent boundaries between Indian and non-Indian lands in New Mexico and placed the Pueblo Indians' internal affairs under the jurisdiction of the United States District Court.

John Collier, who served as the director of the American Indian Defense Association, informed the Pueblos of the pending Bursum Bill. Collier assisted the Pueblos in opposing the legislation by providing the Indians copies of the bill, participating in meetings, and rallying non-Indian organizations. The Pueblos also called a council meeting in which representatives from all nineteen Pueblo tribes participated. On November 22, 1922, the Indian community reestablished the All-Pueblo Council to fight the legislation. This marked the first time in 242 years that the council met.

With national organizations supporting the Pueblos, the legislation was defeated by March 1923. In the aftermath of the Bursum Bill controversy, many of the Pueblos' defenders became prominent leaders within the Indian reform movement of the Collier era.

See also *American Indian Defense Association; Collier, John.*

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BIBLIOGRAPHY

- Briggs, C. L., and J. R. Van Ness, eds. *Land, Water, and Culture: New Perspectives on Hispanic Land Grants*. Albuquerque, N.Mex.: University of New Mexico Press, 1987.
- Kelly, Lawrence C. *The Assault on Assimilation: John Collier and the Origins of Indian Policy Reform*. Albuquerque, N.Mex.: University of New Mexico Press, 1983.

Bush, George H. W.

George Herbert Walker Bush (1924–), the forty-first U.S. president, was born June 12, 1924, in Milton, Massachusetts. As president, he continued an Indian policy of self-government and self-determination begun by the United States in the 1960s.

Bush also signed several bills that affected Native American interests. Perhaps the most significant legislation effected during his administration was the Native American Grave Protection and Repatriation Act (1990), which required all institutions receiving federal funds to inventory their collections of American Indian remains and artifacts, make the lists available to the Indian tribes, and then return any of the items requested by a tribe.

That same year Bush signed the Indian Arts and Crafts Act, which was intended to promote Native arts and crafts and protect them from counterfeiting and deceptive marketing methods by non-Indians; the Native American Language Act, which encourages the preservation and promotion of traditional languages in schools with large Native student populations; and the bill that provided for the construction of the National Museum of the American Indian on the Mall in Washington, D.C. Bush also signed a joint congressional resolution establishing November 1990 as the first National American Indian Heritage Month.

Pursuant to the Indian Gaming Regulatory Act of 1988, in 1990 Bush appointed Anthony J. Hope as the chair of the first National Indian Gaming Commission (NIGC), a regulatory agency established in the Department of the Interior to oversee Indian gaming.

Bush also preserved the rights of the Catawba Nation by granting an extension of an expiring land claim, which enabled the Catawbas to reach a settlement of their land claim litigation and revive its federal recognition in 1993.

See also *Indian Arts and Crafts Act of 1990; Indian Gaming Regulatory Act; National Indian Gaming Commission; Native American Grave Protection and Repatriation Act; Self-Determination.*

Victoria Sutton

BIBLIOGRAPHY

- Gulliford, Andrew. "Curation and Repatriation of Sacred and Tribal Objects." *The Public Historian*, vol. 14, no. 3 (Summer 1992): 23–38.
- Hapiuk, William J. "Of Kitsch and Kachinas: A Critical Analysis of the Indian Arts and Crafts of 1990." *Stanford Law Review*, vol. 53, no. 4 (April 2001): 1009–1075.

Bush, George W.

George W. Bush (1946–) served two terms as president of the United States (2001–). During his years in office he concentrated his presidency on the threat of terrorism and wars in Iraq and Afghanistan. Although Bush directed little attention to Native American issues, Indian affairs did draw notoriety to his administration. For instance, one of Bush's supporters, Jack Abramoff, pled guilty to felony charges for defrauding tribes and corrupting public officials. Abramoff was accused of using his influence with members of Congress to secure favorable decisions on casino gaming for several Native American tribes.

During the Bush administration, the Bureau of Indian Affairs was involved in several lengthy lawsuits, including the massive class-action *Cobell* litigation, which alleged that the federal government incorrectly accounted for and mismanaged Native American assets held in trust for a number of tribes. Controversies also developed over reports that oil companies during the early 2000s underpaid oil royalties on Native American land and over Bush administration plans to store nuclear waste on reservations.

Bush opposed efforts by the National Collegiate Athletic Association to prohibit colleges and universities from using mascots and images deemed offensive to Native Americans. He threatened to veto a bill in Congress aimed at improving health care for American Indians. He also refused to support the breaching of dams in the Columbia and Snake River drainage areas that might have helped salmon recovery

efforts in the Pacific Northwest, an issue of great interest to tribes in the region.

See also *Bureau of Indian Affairs*.

Scott Allen Merriman

BIBLIOGRAPHY

- Campbell, Colin, and Bert A. Rockman, eds. *The George W. Bush Presidency: Appraisals and Prospects*. Washington, D.C.: CQ Press, 2004.
- Draper, Robert. *Dead Certain: The Presidency of George W. Bush*. New York: Free Press, 2007.

Buy Indian Act (1910)

In 1910 Congress passed the Buy Indian Act, which ordered the secretary of the interior to give preference to Native American labor, products, and producers when procuring goods and services for the needs of the Office of Indian Affairs. The purpose of the act was to help integrate Native people into the national economy and to bring the bureau's purchases and hiring within Congress's general procurement regulations.

The Buy Indian Act has been amended several times, and a number of programs have been developed from it. For example, the Indian Incentive Program originated from the Buy Indian Act and provides opportunities for contractors to receive a 5 percent bonus payment from the federal government for work subcontracted to an Indian organization for Indian-owned economic enterprise.

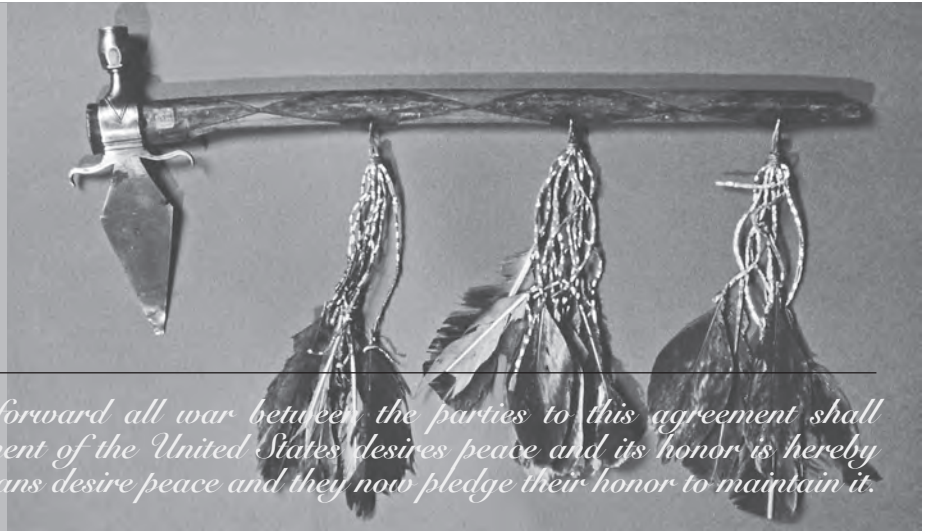
See also *Bureau of Indian Affairs*.

Margaret H. Williamson

BIBLIOGRAPHY

- Buy Indian Act*, 25 U.S.C. 47 (1910).

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Article 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they now pledge their honor to maintain it.

Calhoun, John C.

A South Carolina statesman, famed defender of states' rights, and architect of the constitutional doctrine of nullification, John C. Calhoun (1782–1850) served in the House of Representatives (1811–1817) and the Senate (1832–1844; 1845–1850), and as secretary of war (1817–1825), vice president (1825–1832), and secretary of state (1844–45). As secretary of war under James Monroe, he was responsible for the Indian affairs of the United States and was a transitional figure in the nation's movement toward the policy of removal.

During his tenure as secretary of war, Calhoun pursued an Indian policy that reflected his paternalistic attitude toward Native peoples, whom he regarded as culturally inferior to white Americans but still capable of assimilation. He attempted, within limits, to protect Indians against extermination by American settlers, although not against encroachments onto their land. He established several forts in the West in an effort to intimidate the tribes around them to subject themselves to the United States and negotiated over forty treaties with various tribes. Calhoun also argued that the eastern tribes needed to be removed to the West for their own protection, and he believed that American national security demanded that Indian nations not exist on American borders.

Calhoun pressed for Indian assimilation into white culture and initiated an annual program for funding Indian schools. After the abolishment of the factory system in 1822, he established firm rules for the Indian trade, requiring licenses and bonds for traders and specifying that trade be conducted at certain locations. Calhoun also had to defuse an international crisis with Spain that developed when

General Andrew Jackson led an army into Florida to attack the Seminoles.

In 1824 Calhoun created an administrative office within the War Department called the Office of Indian Affairs and appointed Thomas L. McKenney as its first commissioner.

After he became president, Andrew Jackson converted Calhoun's policy of encouraging Indians to move away from white settlements into an aggressive policy of removal. In the mid-1840s, Calhoun opposed the war with Mexico, claiming it would, through the conquest of vast new territories, bring Americans into conflict with more Indians.

See also *Bureau of Indian Affairs; Civilization Program; Factory System; First Seminole War; Jackson, Andrew; McKenney, Thomas L; Monroe, James; Removal; U.S.-Mexican War (1846–1848).*

Mitchell McNaylor

BIBLIOGRAPHY

- Bartlett, Irving H. *John C. Calhoun: A Biography*. New York: W. W. Norton & Co., 1993.
- Coit, Margaret L. *John C. Calhoun: American Portrait*. Boston, Mass.: Houghton Mifflin, 1950.
- Niven, John. *John C. Calhoun and the Price of Union: A Biography*. Baton Rouge: Louisiana State University Press, 1988.
- Peterson, Merrill D. *The Great Triumvirate: Webster, Clay, and Calhoun*. New York: Oxford University Press, 1987.
- Wilson, Clyde N. *John C. Calhoun: A Bibliography*. Westport, Conn.: Meckler Corporation, 1990.

California v. Cabazon Band of Mission Indians (1987)

California v. Cabazon Band of Mission Indians, decided by the United States Supreme Court on February 25, 1987, was the impetus for the Indian Gaming Regulatory Act of 1988. The

specific questions presented in *Cabazon* were whether California and Riverside County in that state could apply their laws limiting bingo gaming to charities, setting maximum bingo prizes, and otherwise regulating bingo and draw poker, to facilities on the Cabazon and Morongo reservations. The state argued that it had an interest in preventing tribal gaming from infiltration by organized crime. The Court's 6–3 majority rejected this argument and concluded that state laws regulating forms of gambling, as distinguished from prohibiting those forms altogether, are preempted under the U.S. Constitution's Supremacy Clause. State laws attempting to regulate gaming on Indian reservations, in other words, were unenforceable unless they were authorized by the United States Congress. The Court also concluded that neither Public Law 280, which gave some states limited criminal jurisdiction over some reservations, nor the federal Organized Crime Control Act, which was passed to stamp out criminal gambling syndicates, provided such authorization.

The Court found compelling federal and tribal interests in Indian self-sufficiency and economic development, reasons that justified the rule requiring federal preemption over any competing state laws. The *Cabazon* majority pointed out that gambling proceeds were important for tribal revenues, that the Interior Department had approved tribal ordinances establishing reservation gambling, and that the tribes were regulating the activity. The judges also stated that the department maintained formal review procedures for reservation bingo management contracts, and three federal agencies gave financial assistance to the development of reservation gambling.

The decision, in the view of Congress, created a regulatory void, which it filled the following year by enacting comprehensive federal regulation of reservation gambling. The new law, the Indian Gaming Regulatory Act of 1988, thus ended the legal debate over whether Congress actually intended to regulate gaming.

See also *Gaming; Indian Gaming Regulatory Act of 1988.*

Steven B. Jacobson

BIBLIOGRAPHY

California v. Cabazon Band of Mission Indians, 480 U.S. 202 (1987).
Indian Regulatory Gaming Act, Public Law 100-497, 100th Cong., 2d sess. (October 17, 1988).

California Indians

For more than 150 years, California Indians have faced the indecisiveness and uncertainties of the federal government's

Indian policy. Beginning with the Treaty of Guadalupe Hidalgo, which ended the U.S.–Mexican War (1846–1848), the government virtually abandoned California Indians and left them to the devices of state policies. During the 1870s the federal government exerted more control over California Indian affairs, especially in its efforts to enact President Ulysses S. Grant's Peace Policy. Between 1880 and 1932, federal officials began a sustained effort to assimilate, individualize, and detribalize California Indians, forcibly enrolling them in boarding schools and enacting the General Allotment Act (Dawes Act) of 1887, which broke up tribal lands and allotted portions of them to individual Indians. The 1930s were a period in which the government offered opportunities for government and economic development.

The last fifty years have witnessed more changes in federal Indian policy. After World War II (1939–1945), officials promoted a policy of forced assimilation and an end to the trust relationship between the federal government and California Indians, particularly the *rancherias* (Indian settlements established by the government). However, the Civil Rights movement, particularly grassroots efforts on the part of the California Indians, challenged this program of termination and helped usher in the era of self-determination.

California Indian Populations and Spanish and Mexican Policies

The various shifts in federal Indian policy are best seen against the backdrop of California Indian population history. Most scholars estimate that at the time of first contact with Europeans, 310,000 Native people lived within the current boundaries of the state of California. In 1769 the arrival of Spanish missionaries, soldiers, and settlers initiated a drastic population decline. By 1821, when Mexico gained its independence from Spain, only about 220,000 California Indians survived. The decrease was largely isolated to the California coast, where most of the Spanish settlements were located. Scholars attribute this population decline to disease and to the Spanish policy of forced conversion. At their missions, Franciscans instituted policies of assimilation and concentrated Indian populations into small areas in an effort to control the use of Native labor. Each contributed to the high mortality rates and low fertility rates of Natives at the missions.

During the era of Mexican occupation of California (1821–1848), the California Indian population continued to decline as Mexicans and Americans ventured into the interior of the territory. Mexican officials sanctioned policies that forced California Indians to work on Mexican ranchos



Indians at the Carmel mission welcome the Comte de La Perouse and his expedition. The Spanish occupation of California involved forced conversion programs at the missions.

(ranches). In the 1830s, for instance, General Mariano Guadalupe Vallejo and Miwok Indian allies attacked neighboring Wappos, killing some and hauling others away for forced labor. Additionally, epidemic diseases ravaged California Indian populations. In 1833 a wave of malaria, spread by American fur traders, killed more than twenty thousand Indians in California's Central Valley. Four years later, smallpox spread from Fort Ross and killed approximately two thousand California Indians along the north coast. By the end of Mexican rule in California, only about 150,000 California Indians survived.

Although the more than 50 percent population decline between 1768 and 1848 was devastating, worse was still to come. Between 1848 and 1860, the California Indian population declined by approximately 80 percent, from 150,000 to only 30,000. Across the state, low fertility patterns, disease, and a genocidal program sharply cut Indian populations. The creation of the reservation system in California did little to protect Natives, and by 1900 the California Indian population hit its lowest point—a figure possibly as low as 15,000.

During the twentieth century, the population of Native people in California rebounded. In the 2000 Census, over 600,000 California residents identified themselves as

American Indian. Although the number of Natives born in the state has increased, many of these people removed to California, largely after World War II.

The Treaty and the State

In 1848 the United States and Mexico signed the Treaty of Guadalupe Hidalgo that ended the war between them. In theory, the treaty included provisions to protect California Indians. Under the Plan of Iguala (1821), the new nation-state of Mexico had granted citizenship to Indians within its domain, which included California (although Spain, from whom Mexico had gained its independence, had only settled the coastal strip from present-day San Diego to San Francisco). Under Guadalupe Hidalgo, all Mexican citizens (including California Indians who lived in the missions) could have United States citizenship if they chose to remain in the Southwest. The United States, in subsequent dealings with California Indians, ignored this provision.

Partially, this was the result of the California Gold Rush. Between 1848 and 1849, more than 100,000 people streamed into California in search of gold. The rapid influx of Americans hastened California's admission into statehood. Since California lacked a territorial period, federal Indian affairs in the new state were nonexistent. For nearly three

years after the United States signed Guadalupe Hidalgo, the federal government left dealings with California Indians in the hands of the state.

The first law passed by the new California state government was the 1850 Act for the Government and Protection of the Indians. The law granted control over local Indian affairs to the justice of the peace, who heard all complaints made against Indians. The law outlined specific Indian crimes, such as burning the prairie, buying alcohol, and stealing livestock (punishable by up to twenty-five lashes). Furthermore, Indians needed a pass to be in a town or the justice of the peace could arrest them on charges of vagrancy and loitering. Finally, this law included a process where parents or relatives could hand over Indian children to white ranchers for a period of indenture, during which the Indians would work for the ranchers. Ranchers held Indian males until the age of eighteen and Indian women until the age of fifteen. The rancher had to clothe, feed, and humanely treat the Indian workers. The state legislature amended this provision ten years later to allow Indian men to be held until the age of twenty-five or thirty (depending on the age at which they were first indentured) and women until the age of twenty-one or twenty-five. The Act for the Government and Protection accomplished two things. First, it codified the Spanish and Mexican tradition of using Indians for labor. Both Spanish missions and Mexican ranchos depended on degrees of forced labor. White Californians simply made this tradition part of the new state laws. Second, the law gave tacit approval for ethnic cleansing, if not genocide. Mountain men publicly announced that they had killed Indian adults and then sold their children into indentured servitude.

Other state government decisions also sanctioned the murder of California Indians. State governors authorized locals to organize militias to attack Indians under the pretense of protecting white settlers and their property. In 1850 William Rogers, a sheriff from El Dorado County, formed a militia to punish Indians for killing livestock. For nearly three weeks, the Rogers party operated along the Cosumnes River and killed eighteen Miwoks. At the end of their expedition, they provided the state government with a bill for more than \$101,000. In northern California, these militias operated with no penalties for their actions. In the fall of 1859, a group called Jarboe's Rangers, named after their commanding officer Walter Jarboe, operated in the vicinity of the Round Valley reservation with the purpose of defending property and livestock from Indian attacks. By the time the governor disbanded the unit in January 1860, the

Rangers had reportedly killed three hundred Indians and imprisoned five hundred, but numbers may have been higher. On August 12, 1860, the California state legislature authorized the payment of \$9,347.39 to the Rangers. Militias cost the state government more than \$1 million, a sum that the federal government helped pay. These hunting parties pushed California Indians further into mountain fortresses, limiting their options for food, which thus increased Indian efforts to kill livestock.

Reservations

While state officials sanctioned forced labor and genocide, federal officials made efforts to shield California Indians through the Office of Indian Affairs (OIA). Shortly after California became a state, the U.S. Senate authorized George Barbour, Redick McKee, and Oliver Wozencraft to travel to the area for the purposes of meeting with Indians. In 1850 and 1851, the trio signed eighteen treaties with California Indian tribes, which set aside seven and a half million acres for Indian reservations within the state's boundaries. When the Senate received these treaties, considerable debate ensued. White Californians protested, arguing that the treaties provided too much potentially valuable mining and agricultural land for Indians. Missouri Senator Thomas H. Benton, father-in-law to surveyor and explorer John C. Frémont, argued that California Indians lacked land rights because they did not present such claims to the California land claims board. Other senators argued that Barbour, McKee, and Wozencraft lacked the authority to make treaties with California Indians. Other complaints revolved around the excessive and corrupt agreements the three men made with California merchants to supply provisions to the reservations. McKee, who negotiated treaties with northern California Indians, contracted with his son to provide beef cattle for Pomos in the Ukiah Valley. In the end, the United States Senate discussed the eighteen treaties in secret session and did not bring them to the Senate floor, essentially rejecting them.

Although the Senate never ratified the treaties, it stopped short of removing Indians from the state, an option that many senators and Californians supported. Rather, in 1852 the Senate appointed former Los Angeles mayor Edward F. Beale as superintendent of Indian Affairs in California. Drawing on ideas already in circulation in the state, Beale suggested a series of temporary reservations and farms. Beale planned to remove Indians to these institutions, where they would provide enough labor to make the reservations and

farms self-sufficient. If white Californians demanded Indian land, federal officials could easily remove Indians to other parts of the state. During his tenure as superintendent from 1852–1854, Beale established several reservations and farms in California, including the Tejon reservation and the Fresno Indian farm. His successor, Thomas J. Henley (1854–1859), expanded Beale's work, creating five new farms and reservations: Nome Lackee, Mendocino, Klamath, Nome Cult farm (later renamed the Round Valley reservation), and the Tule River farm.

This early reservation system failed to protect California Indians. Superintendents Beale and Henley were corrupt and used the offices for self-advancement. After being removed from their positions, both men retired to ranches located on the borders of Indian farms that they had established during their administrations. Moreover, Henley used Indian labor and OIA resources to establish his ranch. The federal government also grossly underfunded California reservations. In 1854 Congress authorized nearly \$500,000 for California Indians, but by 1874 that amount had declined to approximately \$100,000. Finally, reservations did not protect California Indians from the state militias and other vigilante activities. These organizations operated in the vicinity of reservations, killing Indians. By the end of the Civil War (1861–1865), government officials considered the reservation system too much of an economic burden to continue and reduced their number. By 1869 only three remained: Hoopa Valley, Round Valley, and Tule River. Afterwards, most Indians abandoned the reservations and formed communities, often near white farms and ranches.

The Peace Policy

After the transcontinental railroad and the telegraph began to link the nation, it became easier for OIA officials to communicate with California reservation agents and impose federal edicts on the state's Indian population. Between 1868 and 1876, Indian agents on California's three remaining reservations instituted the primary policy initiatives of the mid-nineteenth century Peace Policy.

Initiated during the presidency of Ulysses S. Grant, the Peace Policy attempted to offer more humane and honest treatment to Indians. The OIA contracted with churches to choose reservation agents. The Methodist Church placed agents on California's reservations who informed the Indians of the government's mission and promise of assimilation. These agents attempted to transform Indian life by teaching a Protestant work ethic to the Indians and persuading them

to dress in American clothes, cut their hair, put their children into schools, and convert to Christianity. Despite the Peace Policy's stated goals, life did not always improve for the Indians due to its effects. On the Hoopa Valley reservation, agent J. L. Broaddus used physical force to make assimilation mandatory, including arresting and imprisoning Hupas who defied his orders.

Until the 1860s the federal government had followed a "policy of neglect" for Indians in that region of the state. This changed under Grant's administration, and in January 1870 the president established the Pala and San Pasqual reservations through executive order. Government officials hoped that these reservations would protect Cahuillas, Luiseños, and Cupeños and introduce them to the government's assimilation program. However, many southern California Indians and non-Indians opposed the new reservations. Southern California whites, as they had during the 1850s treaty debate, argued that the land set aside was too good for Indians.

Some Luiseños and Cupeños refused to leave their homelands or support a government-appointed leader named Manuelito Chota. Due to this opposition, Grant terminated the reservations in 1871. Four years later, after meeting with Manuel Olegario, elected leader of the Luiseños and Cupeños, Grant authorized nine new southern California reservations through executive order.

Like those in northern California, southern California reservations became home to the government's efforts to "civilize" and transform Indian life. Government officials established schools and promoted the English language and American clothing. Still, some "friends of the Indian" criticized reservation conditions in southern California. In the early 1880s, writer Helen Hunt Jackson led a crusade for American Indians, specifically those in southern California, in her 1881 nonfiction work, *A Century of Dishonor: A Sketch of the United States Government's Dealings with the Indian Tribes*, and her 1884 novel, *Ramona*. In 1883 Jackson conducted a survey of southern California Indian conditions, discovering that whites had, among other injustices, exploited and stolen Indian lands. Her work reflected a general dissatisfaction with federal Indian policy in the early 1880s.

Assimilation Programs

In response to the discontent with the reservation system and the government's role in Indian affairs, officials and reform groups embarked on a new campaign to individualize and detribalize American Indians. This process occurred

in two phases. Between 1880 and 1900, federal officials expressed an optimistic view of American Indians. They argued that the “Indian problem” resulted from a poor environment—namely, the reservation—so they proposed to either change reservations or remove Indians from them. Over time, however, the well-intentioned motives of this assimilation policy surrendered to more destructive ones. Subscribing to pseudo-scientific notions of race, as well as the demand of the western states for Indian land and resources, reformers began to profess a negative assessment of Indian abilities. They argued that Indians could not change, were doomed to a nomadic and inferior existence, and would ultimately disappear as a race. The 1900 census revealed that only 250,000 Indians lived in the United States, the lowest number recorded up to that time. Rather than making efforts to protect Indians, many people reasoned that the government should liquidate resources spent on Indians and assimilate Native people into the lowest levels of American society.

In the late nineteenth century, the federal government began to fund educational programs on reservations. In the 1870s agents established day schools on the Round Valley and Hoopa Valley reservations in northern California. In the following decade, federal officials expanded the education program to include on-reservation boarding schools. By the end of the century, federal officials had established two off-reservation boarding schools in southern California: the Perris Indian School and the Sherman Indian Institute. At these institutions, students participated in very basic classroom studies and a more extensive vocational training program. At each level of education, students worked on farms or in domestic labor both on and off school grounds. At Sherman, for instance, the “outing program” placed Indian students in white homes in southern California, where they usually performed agricultural labor or housekeeping duties.

Many California Indians resented the federal education programs. Schools separated children from families, tried to turn children away from traditional tribal practices, and were unhealthy places to live. Students participated in several forms of resistance. Stories of students running away from boarding schools are common in the oral history from California Indian communities. In 1883 Round Valley Indian boarding school students burned their dormitory. A little more than thirty years later, another group of Round Valley students burned school buildings again, prompting the federal government to abandon the on-reservation boarding school in favor of a day school.

The policy of land allotment, enacted in the General Allotment (Dawes) Act of 1887, attempted to Americanize the California Indians by ending their communal ownership of property. Allotment called for the president of the United States to break up selected reservations into smaller land parcels (usually 160 acres), allow individual Indians to receive the land allotments, and then turn over any remaining land to the public domain for future sale to non-Indians. Agents from the Indian office hoped individual land ownership would convince Natives to adopt sedentary farming lifestyles. Across the country, the allotment policy had disastrous results, eventually reducing the American Indian land base in the country by 70 percent.

The results of allotment contrasted with the hopeful aspirations of California Indians. While the Dawes Act called for Indians to receive 160 acres of land, California allotment agents deemed there was not enough arable reservation land to grant each individual Indian this many acres. Most California Indians received allotments of less than ten acres. The average allotment on the Hoopa Valley reservation was 6.5 acres, while those on the Pala reservation were eight acres. These land plots were simply insufficient for California Indians to farm and lacked important resources. Despite this, many California Indians supported allotment. Indians on the Hoopa Valley and Round Valley reservations viewed allotment as an opportunity to control their land bases, since the policy promised to grant Native people their own land.

While reservations faced the onslaught of allotment, a humanitarian impulse in Indian affairs prompted the creation of *rancherias* for “homeless Indians.” In 1906 the federal government commissioned attorney C. E. Kelsey to conduct a census and survey of nonreservation Indians in California. Kelsey found more than thirteen thousand Indians living off-reservation in difficult circumstances, often relying on wage labor to see them through the year. In response, the federal government authorized money to purchase land in California for these Indians. Between 1906 and 1934, the federal government created fifty-four *rancherias* in California, and five more between 1934 and 1950.

Although the *rancherias* reversed the history of divesting California Indians of their land, they failed to provide better health care or economic development. *Rancherias* were residential land bases, consisting of anywhere from five to a few hundred acres, and usually lacking in water and good soil. Moreover, state and federal laws placed *rancheria* Indians in an uncertain position. In 1917 a California court ruled in *Anderson vs. Lake County* that *rancheria* Indians were citizens

of the United States because they were a part of the local economies. Thus, reservation Indians, many of whom had also entered the market economy as wage workers, were ineligible for the World War I military draft while *rancheria* Indians were eligible. Many *rancheria* Indians protested this unequal treatment and questioned the meaning of citizenship, largely because of the discrimination many of them faced at schools, hospitals, and other public places.

California Indians during the Indian New Deal

Federal Indian policy began to shift in the 1920s. In part, this new direction resulted from the organizing efforts of California Indians. In the 1920s and 1930s, California Indians formed political organizations, which protested the activities of the Office of Indian Affairs (OIA). In northern California, Pomos, Yukis, and members from other nations formed the Society of Northern California Indians. Assisted by Father Raymond Brown, a Catholic priest from Ukiah, the organization fought for welfare relief for northern California Indians. In southern California, the Mission Indian Federation, led by a Cahuilla named Adam Castillo, lobbied against allotment and the paternalistic policies of the OIA. Members also promoted a more active role for California Indian women in tribal politics.

On a national level, the appointment of John Collier as commissioner of Indian affairs ushered in a new direction in Indian policy. Best known for his work with the Pueblos in the 1920s, Collier formed the American Indian Defense Association in 1923, basing it in southern California, and participated in several efforts to improve the condition of California Indians. As commissioner, John Collier developed the Indian Reorganization Act (IRA). The act ended allotment, created a mechanism for American Indian nations to create tribal governments and corporations, and provided loans to Indian communities for economic development. Many reservations and *rancherias* took advantage of the IRA to create tribal governments and pursue economic development programs, such as cooperative cattle enterprises. In the early 1930s, Collier traveled throughout Indian Country soliciting support for the bill. In particular, he held meetings at the Chemawa Indian School in Oregon (which northern California Indians attended) and Riverside, California (which southern California Indians attended).

Still, aspects of the IRA were paternalistic. Much like the Peace Policy and assimilation efforts, Collier imposed his policy through the OIA, sometimes without listening to Native people. Moreover, the IRA ignored tribal govern-

ment traditions and treated American Indian groups as if they were culturally indistinct. Many California Indians, especially in the southern part of the state, disapproved of the act and the intrusiveness of the federal government. The way in which Collier manipulated election returns seemed to confirm their suspicions. On the Santa Ysabel reservation, only 9 out of 114 eligible voters cast ballots in favor of the IRA, while many demonstrated their objection to the act by abstaining from voting. However, Collier counted abstentions as a "yes," not a "no," vote and imposed an IRA tribal government on the Santa Ysabel reservation. On the Round Valley reservation, although 850 Indians were eligible to vote, only 200 did—138 voting in favor of the act and 62 opposing it. In these areas, a minority of the population chose a system of government that remains intact.

Compensation, Relocation, and Termination

At the end of World War II, federal Indian policy reversed direction yet again. The high rate of American Indian participation in World War II—both as fighting participants and on the home front—and a movement to reduce federal expenditures in government convinced some federal officials that the time was right for the final implementation of the assimilation program. These officials sponsored a three-part agenda. First, they intended to compensate Indians for past wrongs in order to wipe the slate clean. Second, they advocated terminating the federal trust responsibility over Indian lands and resources. Finally, they sought to relocate American Indians from their home communities (reservations or *rancherias* in California) to urban areas.

The process of compensation for California Indians began in the 1930s, but was not completed until the early 1970s. In 1927 the state attorney general helped California Indians sue the United States over the unratified 1850–1851 treaties. In 1944 the United States Court of Claims found in favor of the Indians and declared that the United States owed them more than \$17 million, less \$12 million for services rendered to them in the intervening years. In 1950 the United States Congress authorized payment to the thirty-six thousand eligible California Indians at an amount of approximately \$150 per Indian.

The litigation over California Indian land did not end there. In 1946 California Indians brought suit against the United States with the help of the Indian Claims Commission (ICC). Formed in the mid-1940s, the ICC enabled American Indians to sue the federal government over treaty violations and outstanding debts. The basis of the

1946 suit was the land that California Indians had ceded in the early 1850s for which they never received compensation. The Indians initially demanded compensation for more than 90 million acres of California, but settled for 64.5 million acres and a settlement of \$29.1 million (\$46 million after interest). In 1972 Congress authorized another per capita payment, and seventy thousand California Indians received payments of \$668.51.

Once the federal government had “compensated” California Indians for lost lands, it began the process of terminating the trust relationship. Termination attempted to end certain government services for American Indian communities and divide tribal assets (such as land and other economic resources) among individual tribal members. The federal government took several steps in this direction, many of which directly targeted California Indians. The 1953 Public Law 280 transferred criminal and civil jurisdiction in California from the federal government to the state. Also in 1953 the House of Representatives passed Concurrent Resolution No. 108, which provided the groundwork for termination. The California legislature supported termination until a state Senate report revealed that the policy threatened to shift large health care expenses to the state. Nevertheless, federal officials applied the termination policy to California, targeting the most vulnerable Native communities. The 1958 Rancheria Act authorized forty-one *rancherias* to vote for federal termination. Thirty-six *rancherias* did, thus severing their relationship with the federal government. By 1974 *rancherias* had lost a total of approximately five thousand acres of land, with ten losing all of their land.

The Bureau of Indian Affairs actively supported the relocation of California Indians to urban areas throughout the state. In one way, this policy had already been implemented in California, but it was more by Indian choice than by government edict. In 1951 eleven thousand California Indians lived in towns and cities, while a little more than seven thousand lived on reservations and *rancherias*. Thus, many Indians already lived off of federal trust land. Throughout the 1960s the movement of California Indians and other American Indians to cities increased exponentially. California’s urban areas, such as Los Angeles, San Francisco, and Oakland, developed multiracial and pan-Indian communities. Cahuillas in Los Angeles and Pomo in Oakland began to live next door to Lakotas and Navajos. In Oakland, the pan-Indian community created the Indian Friendship House, which sustained community activities and cultural events throughout the 1960s and 1970s.

Civil Rights, Self-Determination, and Indian Gaming, 1960 to the Present

In response to the policy actions of the 1960s, California Indians launched several efforts to take control of their own affairs. In 1964 Cahuilla Rupert Costo helped form the American Indian Historical Society (AIHS), which attempted to correct historical misperceptions of California Indian history. For the next twenty years, the AIHS produced a journal and published a series of books condemning Spanish, Mexican, and American treatment of California Indians. In 1967 a group of California Indians formed the California Indian Education Association, which sought to improve educational programs in the state. In that year, David Risling, a Hupa, helped coordinate an education conference in North Fork, California. The conference published a book entitled *California Indian Education*, which demanded more California Indian involvement in education, the restoration of Johnson-O’Malley funds, and increasing California Indian participation in BIA-sponsored schools.

Such events foreshadowed the Civil Rights movement in the United States. In particular, students demanded more American Indian involvement in the undergraduate curriculum. In the late 1960s, California Indian students at the University of California at Berkeley, the University of California at Los Angeles, the University of California at Davis, and California State University at Sacramento demanded more courses and better treatment for California Indian students. In the late 1960s and 1970s, schools in California’s state university and university systems formed American Indian or Ethnic Studies departments. Many of these students participated in the occupation of Alcatraz Island in the San Francisco Bay from 1969–1971. In the 1970s a group of California Indians formed Deganawidah-Quetzalcoatl (D-Q) University, an all-Indian college located near Sacramento.

Emboldened by the occupation of Alcatraz Island, other California Indians engaged in the nonviolent protest activities that were common in the era. Walt Lara, a Yurok, and other California Indians protested for the right to fish in the rivers and streams of northern California. Pit River Indians protested the ICC decision and the subsequent paltry distribution of money to California Indians. In June 1970 they occupied a campground that the Pacific Gas and Electric Company claimed. Police officials arrested 38 protesters, and California courts gave Indians a \$150 fine and one year of probation. That fall, the Pit River Indians occupied part of

Lassen National Forest and built a quonset hut to serve as the headquarters and cultural center for the activists. On October 27, 1970, police officers arrested thirty of the protesters, but none of them were convicted of any crime.

The consistent demands of American Indians in California and across the country for better treatment and for the right of Native political autonomy prompted action by the federal government. In 1973 President Richard Nixon signed the Indian Self-Determination and Educational Assistance Act. The era of self-determination was a time when, ideally, Indians and government officials would work together in the fields of education, health care, and government. Finally Indians were able, to some extent, to take the lead in determining their destiny.

One of the ways in which California Indians have taken advantage of self-determination is through Indian gaming. Indeed, some of the landmark Supreme Court decisions in Indian gaming have involved California Indian nations. Using successful bingo halls like those operated by the Seminole Nation in Florida, the Cabazon Band of Mission Indians opened a card room in southern California. However, local law officials from the city of Indio and Riverside County raided the Cabazon card room and attempted to exert local control over it. The Cabazon Band sued and in 1987 the case reached the Supreme Court. In *California v. Cabazon Band of Mission Indians*, the Court ruled that Indians could operate games of chance free from local regulation.

The decision forced the United States to clarify the parameters of Indian gaming in the United States. In 1988 the United States passed the Indian Gaming Regulatory Act (IGRA). The act recognized three classes of Indian gaming: Class I (traditional games of chance with small payouts), Class II (such as bingo), and Class III (slots, blackjack and other games associated with Las Vegas-style casinos). While tribal governments exercise supervision over Class I and II gaming, the IGRA stipulates that Native nations have to negotiate compacts with states in order to operate Class III gaming. Many California Indian reservations and *rancherias*, especially those in southern California and the Sacramento Valley, have utilized subsequent laws and provisions to benefit from the IGRA.

In 2000 California voters approved Proposition 1A, which allows California Indian nations to operate slot machines and Las Vegas-style casinos. Indian sovereignty over gaming has become contested in recent years. In a 2003 gubernatorial recall election, candidate Arnold Schwarzenegger demanded

that the state and California Indian nations rework their gaming compacts because, he said, the Indians were not paying their fair share for government services. Many non-Indians in California continue to protest the expansion of Indian gaming. Local referendums and state-wide attempts to curtail Indian gaming receive popular support, but Native Californians have successfully blunted the worst excesses of these efforts.

California Indians have made considerable efforts throughout the decades to dictate their own course in federal Indian policy. As California Indian nations enter the twenty-first century, they stand poised to lead efforts to preserve tribal sovereignty and cultural autonomy.

See also *Alcatraz Island, Seizure of; Allotment in Severalty; American Indian Movement; Assimilation and Acculturation; Collier, John; Disease; Gaming; General Allotment Act (Dawes Act) of 1887; Education: Boarding Schools; Gold and Gold Rushes; Grant, Ulysses S.; Guadalupe Hidalgo (1848), Treaty of; House Concurrent Resolution 108; Indian Claims Commission Act; Indian New Deal; Indian Reorganization Act (1934); Indian Self-Determination and Educational Assistance Act (1975); Jackson, Helen Hunt; Mexico, Indian Policy of; Missions and Missionaries; Nixon, Richard M.; Public Law 280; Rancherias; Relocation Program; Reservations; Self-Determination; Smallpox; Spain, Indian Policy of; Termination and Restoration; U.S. Indian Policy: Congress and the Executive, 1845–1877; U.S. Indian Policy: Congress and the Executive, 1871–1934; U.S. Indian Policy: Congress and the Executive, 1928–1946; U.S. Indian Policy: Congress and the Executive, 1960–; U.S.-Mexican War (1846–1848).*

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BIBLIOGRAPHY

- Almquist, Alan, and Robert Heizer. *The Other Californians: Prejudice and Discrimination under Spain, Mexico and the United States to 1920*. Berkeley: University of California Press, 1977.
- Bauer, William. "We Were All Migrant Workers Here: Round Valley Indian Labor in Northern California, 1850–1929." *Western Historical Quarterly*, vol. 37 (Spring 2006): 43–64.
- Cook, Sherburne. *The Population of the California Indians, 1769–1970*. Berkeley: University of California Press, 1976.
- . *The Conflict Between the California Indian and White Civilization*. Berkeley: University of California Press, 1976.
- Costo, Rupert, and Jeannette Henry. *Natives of the Golden State: The California Indians*. San Francisco: Indian Historian Press, 1995.
- Forbes, Jack D. *Native Americans of California and Nevada*. Revised edition. Happy Camp, CA: Naturegraph Publishers, 1993.
- Hackel, Steven. *Children of Coyote, Missionaries of Saint Francis: Indian-Spanish Relations in Colonial California, 1769–1850*. Chapel Hill: University of North Carolina Press, 2005.
- Heizer, Robert, ed. *Handbook of North American Indians: California*. Washington, D.C.: Smithsonian Institution Press, 1978.
- Hurtado, Albert. *Indian Survival on the California Frontier*. New Haven, Conn.: Yale University Press, 1988.

- Magliari, Michael. "Free Soil, Unfree Labor: Cave Johnson Coutts and the Binding of Indian Workers in California, 1850–1867." *Pacific Historical Review*, vol. 73 (August 2004): 349–89.
- Mathes, Valeria Sherer. *Helen Hunt Jackson and Her Reform Legacy*. Norman: University of Oklahoma Press, 1997.
- Phillips, George H. "Bringing Them under Subjection": *California's Tejon Indian Reservation and Beyond, 1852–1864*. Lincoln: University of Nebraska Press, 2004.
- . *The Enduring Struggle: Indians in California History*. San Francisco: Boyd & Fraser, 1981.
- . *Indians and Indian Agents: The Origins of the Reservation System in California, 1849–1852*. Norman: University of Oklahoma Press, 1997.
- Rosenthal, Nicolas G. "The Dawn of a New Day?: Notes on Indian Gaming in Southern California." In *Native Pathways: American Indian Culture and Economic Development in the Twentieth Century*, edited by Brian C. Hosmer, Colleen O'Neill, and Donald L. Fixico, 91–111. Boulder: University Press of Colorado, 2004.

Camp Grant Massacre (1871)

After the Gadsden Purchase in 1854, Americans steadily moved into southern Arizona, threatening Apaches who had made their home in the region for generations. To protect settlers, in 1860 the U.S. Army established Fort Aravaipa northeast of Tucson. Renamed Camp Grant, after General Ulysses S. Grant, by 1865 the camp's "protection" of settlers entailed indiscriminately hunting down Apaches—killing men, capturing women and children, and destroying villages.

In February, 1871, Aravaipa and Pinal Apaches began surrendering to the U.S. Army at Camp Grant. By April nearly five hundred Apaches were peacefully settled five miles east of Camp Grant. Infuriated by the belief—although unfounded—that these Apaches were committing raids while under the protection of the army, a group of prominent Tucsonans organized and lead a violent attack against them.

On April 30, 1871, a group of Anglo-Americans, Mexican Americans, and Tohono O'odhams from Tucson attacked the encampment of Aravaipa and Pinal Apaches, killing more than one hundred, mostly women and children, and taking some thirty children as slaves.

After the massacre, Tucsonans were jubilant, but President Grant called the attack murder. Under intense pressure from eastern authorities, one hundred men were indicted for 108 counts of murder. The week-long trial in December, 1871, focused exclusively on Apache raiding. After nineteen minutes of deliberation, the jury pronounced the defendants not guilty. Although these events helped convince the federal leaders to adopt Grant's Peace Policy, in the aftermath of the massacre Aravaipa and Pinal Apaches were never again able to claim their ancestral homelands.

See also *Grant, Ulysses S.*

Chip Colwell-Chanthaphonh

BIBLIOGRAPHY

- Colwell-Chanthaphonh, Chip. *Massacre at Camp Grant: Forgetting and Remembering Apache History*. Tucson: University of Arizona Press, 2007.
- Hammond, George P. *The Camp Grant Massacre: A Chapter in Apache History*. Berkeley: Proceedings of the Pacific Coast Branch of the American Historical Association, 1929.
- Hastings, James E. "The Tragedy at Camp Grant in 1871." *Arizona and the West*, vol. 1, no. 2 (1959): 146–160.
- Langellier, J. Phillip. "Camp Grant Affair, 1871: Milestone in Federal Indian Policy?" *Military History of Texas and the Southwest*, vol. 15, no. 2 (1979): 17–30.

Campbell, Ben Nighthorse

A former senator (1993–2005) and representative (1987–1993) from Colorado, as well as an artist and Olympic athlete, Ben Nighthorse Campbell (April 13, 1933–) defied Capitol Hill conventions, often driving to work on a Harley Davidson motorcycle sporting his signature string tie, cowboy boots, and ponytail. As an Indian member of Congress, he fought to improve the living conditions on reservations and advance the status of Native Americans. Since his retirement from the Senate in 2005, Campbell has lobbied for Indian tribes and western interests.

Born in Auburn, California, to a Northern Cheyenne Indian and a Portuguese woman afflicted with tuberculosis, Campbell grew up in orphanages, in foster homes, and under the sporadic care of his sickly mother and alcoholic father. A high school dropout, he returned to school after serving in the Korean War (1950–1953) and worked his way through a degree at San Jose State University in 1957. After studying judo in Tokyo for four years, he won a gold medal at the 1963 Pan Am Games and captained the U.S. Olympic judo team in 1964.

In the 1970s, Campbell moved to Colorado to raise horses and design Indian jewelry. He also reclaimed his Cheyenne heritage, becoming a tribal chief in 1985 and adopting "Nighthorse" as a middle name. A moderate Democrat, he won election to the state legislature, serving from 1983 until 1986, when he launched a successful campaign for the U.S. House of Representatives.

Representing Colorado's sprawling Third District, Campbell served on the interior and agriculture committees, where he concentrated on the management of mining, water rights, forests, livestock, and national parks. Campbell's first major bill, the Colorado Ute Indian Water Rights

Settlement Act (1988), addressed the longstanding claims of two Ute tribes and authorized a future reservoir to irrigate southeastern Colorado and northern New Mexico. However, it would take additional legislation, which he sponsored as a senator in 2000, to allow the construction of the controversial Animas-La Plata Water Project.

Known to defend Native interests outside his district, Campbell worked to eliminate alcoholism and other health problems on Indian reservations. In his third term, he commemorated the Sioux and Cheyenne Indians, who defeated George Armstrong Custer's Seventh Cavalry in 1876, by having the former Custer Battlefield National Monument renamed the Little Bighorn National Monument (1992).

After entering the Senate in 1993, Campbell, a fiscal conservative and social liberal, grew apart from the Democratic Party. He switched to the majority Republican Party in 1995 and took seats on the powerful Appropriations Committee and the Indian Affairs Committee, which he later chaired. During his two terms in office, he sponsored legislation authorizing the Black Canyon of the Gunnison National Park (1999), the Sand Creek Massacre National Historic Site (2000), and the construction of the National Museum of the American Indian on the National Mall in 2004. On the museum's opening day, Campbell spoke from the Senate floor wearing the traditional tribal dress of a Cheyenne chief.

Campbell continues to design award-winning jewelry and defend the interests of Native Americans from his home near Durango, Colorado.

See also *Sand Creek Massacre (1864)*.

Jane Armstrong Hudiburg

BIBLIOGRAPHY

- Henry, Christopher E. *Ben Nighthorse Campbell: Cheyenne Chief and U.S. Senator*. New York: Chelsea House Publishers, 1994.
- Viola, Herman J. *Ben Nighthorse Campbell: An American Warrior*. New York: Orion Books, 1993.

Canada, Indian Policy of

The roots of Canadian Indian policy predate the country's creation in 1867, and rest in the French and British colonial eras. Historian J. R. Miller classifies the history of relations between Natives and newcomers in Canada as cooperation (contact–1814), coercion (1814–1969), and confrontation (1969–present day). These divisions can also apply to understanding Canadian Indian policy in general. Early treaties were ones of peace and friendship or trading and military

alliances. Beginning in the mid-eighteenth century, Europeans broadened their claims to aboriginal territories through acts that extinguished title and purchased lands from Native groups. This process accelerated in the nineteenth century and was accompanied by new legal and political restrictions, such as the Indian Act (1876), which transformed Indians into wards of the state. Civilization and protection, then assimilation and control, were the watchwords of Canadian Indian policy and typified Canada's approach to Indians until dramatic changes in the mid-twentieth century, many of them spearheaded by Native peoples themselves.

Canada's Aboriginal Peoples

In 1982 Canada constitutionally acknowledged three aboriginal peoples: Indians, Inuit, and Métis. Previously, Canada's policy towards its Native people had been concentrated on Indians. Nonstatus Indians and Métis were regarded as ordinary Canadian citizens, and only status Indians (a designation with a distinct legal definition) rightly fell within the purview of Canadian Indian policy as governed by the Indian Act. Much of Canadian policy has its roots in the colonial era whereby both French and British practices influenced Canada's treatment of Native people after 1867. "Indian" has been a widely applied term, although Native, aboriginal, First Nation, Amerindian, and indigenous (or *amérindien* and *autochtone* in French) are preferred in Canada.

The Canadian government largely ignored the Inuit ("the people"), called Eskimo until the 1970s, until after World War II (1939–1945), when cultural and administrative structures (and, in the 1950s, relocations) unilaterally imposed Canada's will. The creation of the new territory of Nunavut (1999) in the eastern arctic was the result of decades-long negotiations for land, resources, and rights, and ultimately a form of Inuit self-government.

Canada's third recognized aboriginal group, the Métis, have been mainly disregarded by the Canadian government in terms of policymaking. The word "Métis" refers to persons of mixed Native and non-Native descent, particularly those who identify with a historical cultural identity that emerged over centuries of close ties during the fur trades across Canada.

Colonial Indian Policy

Peace and friendship pacts or commercial alliances were among the first kinds of treaties negotiated between Natives and newcomers in the colonial period, and were rarely formalized in written documents. The Two-Row Wampum

Aboriginal dancers and Canadian mounted police visiting Belgium honor the spirits of indigenous soldiers who died serving Canada during both world wars.



Treaty or *Guswenta* was recorded in a beaded belt representing two watercraft traveling parallel paths along a single river of life. This is how the Haudenosaunees (Iroquois) recognized the historic partnership between Native and European, initially with the Dutch, but later including the English, French, and Americans, one marked by peace, friendship, and mutual respect. The Covenant Chain is a similar early treaty tradition, symbolically a chain linking the European ship and Haudenosaunee canoe. Both the Two-Row Wampum belt and the Covenant Chain continue to be referenced by contemporary Canadian First Nations to emphasize what they see as the foundation of the relationship between peoples.

Until the mid-seventeenth century, the French were interested in exploiting their colonies in North America for their resources. During the fur trade era, aboriginal peoples remained essential partners because Native labor was the means by which furs were supplied. Some French men married Native women, and over time this resulted in the creation of the Métis people and culture. However, no land treaties were ever signed and it is unclear whether aboriginal land rights were affirmed or extinguished (erased) during the French regime. Indian reserves in New France initially emerged from mission villages on lands held by religious orders along the St. Lawrence River. Military alliances with First Nations remained important to the territorial maintenance of New France, and so the French welcomed

alliances with Native peoples through diplomatic and trading practices. One notable peace treaty was the Great Peace of Montreal in 1701 that marked the end of a nearly century-long conflict between the Haudenosaunees (Iroquois) and the French.

Like the French, the British in North America also cultivated military and commercial alliances. The Hudson's Bay Company (founded in 1670) made the fur trade a central point of contact for over two centuries in northern and western Canada. From 1725 to the 1760s, treaties between British and Native peoples on the eastern Atlantic seaboard attempted to establish lasting peace and protected some aboriginal rights to commercial livelihoods. Later treaties acknowledged the resource rights and autonomy of First Nations in the region, rights that were recently upheld by the Supreme Court of Canada (Marshall Decision, 1999) with respect to fishing rights and use of Crown lands.

The Royal Proclamation of 1763

One of the original influences on Canadian Indian policy was the precedent established with the Royal Proclamation of 1763, often referred to in Canada as an Indian *Magna Carta*. This executive proclamation for British North America established practices that defined British Indian policy for the next century and was subsequently adopted by Canada. Only the Crown could extinguish Native land titles

with the consent of Native leaders, in principle during a public meeting convened for such a purpose. The proclamation also created an Indian Territory in those areas west of British and French settlement that was designated for the uses of Native peoples and free from settler interference. This territory was reduced substantially when the borders of Quebec were expanded in 1774. In the short term, the proclamation addressed the fact that the British struggled against Native resistance and defense of their homelands west of the Appalachians, especially in the Ohio River valley, led by a multination alliance commonly associated with the Ottawa war chief Pontiac. The Indian Territory that the proclamation created seemed to affirm the sovereignty of those First Nations. In the long term, the Royal Proclamation of 1763 has been embraced as an Indian bill of rights because of the legal recognition it afforded aboriginal land holdings. Moreover, as Anishinabe (Ojibwe) legal scholar John Borrows contended, the principles of the proclamation were ratified by at least two thousand chiefs representing some twenty-four separate First Nations in the Treaty of Niagara (1764). This suggests the proclamation was not a unilaterally imposed policy.

Treaties and Nineteenth-Century Indian Policy

Historically, treaties in Canada have always been more favorable to the Canadian government than to aboriginal peoples. As military allies, Natives remained vital to the French until the loss of New France in 1763 and to the English until after the War of 1812. Hence political, diplomatic, and peace agreements remained significant. However, non-Native settlement and demand for Native lands and resources accelerated in British North America during the American Revolutionary War (1775–1783) and especially after the War of 1812. This led to arrangements that extinguished aboriginal title to the lands in certain areas, particularly Upper Canada (later southern Ontario). In Quebec and the Atlantic colonies there were no land treaties because First Nations were already confined within settlements or located in areas away from non-Native settlements. Elsewhere in Canada the principles of title extinguishment through Crown purchase were applied, with the exception of British Columbia.

In 1830 Indian affairs were transferred from military to civilian authority, marking the change of a policy characterized by diplomacy and respect of military allies to one of submission to British authority, “civilization,” and “protection.” Indian agents were government representatives sta-

tioned on reserves, which were commonly located within a First Nations’ home territory. Each reserve was divided into several agencies. Moreover, in the early nineteenth century, reserves located in the best regions for raising crops were frequently overrun by squatters, and complaints by Native residents went unaddressed by colonial authorities. By the 1850s the Robinson-Huron and Robinson-Superior treaties firmly established the pattern of subsequent treaty-making until the era of modern settlements in the 1970s. In return for surrendering title to the majority of their lands, Indians who signed treaties received payments, reserves, and usually additional promises such as the right to hunt, trap, or fish on Crown lands, access to Euro-Canadian style education, or other similar assistance aimed to help them adapt to the changing social and economic circumstances.

When Canada was created (July 1, 1867), its federal government was assigned the responsibility of Indian affairs, and the treaty process continued following these earlier English models. In the Canadian west between 1871 and 1877, the first seven of the so-called numbered treaties (Treaties 1–7) were made with various aboriginal groups. These agreements were initiated at the insistence of Native peoples themselves, who wished to have their lands and rights clearly outlined before the start of large-scale immigration. They ceded aboriginal lands to the Crown in exchange for payments, reserves, hunting and fishing rights, clothing and supplies, farm equipment, seed, agricultural training, education, and later promises of medical assistance. However, the crisis caused by the disappearance of the buffalo on the northern plains allowed the Canadian government to take advantage of the situation. By offering rations as part of some treaty packages they were able to compel even the most desperate holdouts to “take treaty,” much in the same way American authorities used rations to pacify the tribes of the Plains. As Treaty 7 elders have recently publicized, aboriginal understandings of treaty agreements differed greatly from how the Canadian government understood them. To aboriginals, a treaty was a flexible arrangement made to ensure peaceful coexistence and the sharing of resources, rather than a one-time real estate deal extinguishing aboriginal title and placing them under Canadian authority. Treaties 8, 9, and 10 (1899–1906) and Treaty 11 (1921) directly related to Canadian interests in resource exploitation and were negotiated to secure Canadian control over mining, forestry, and oil development.

Further west, in the 1850s on Vancouver Island, the British concluded fourteen treaties accounting for less than 3% of

the island's land mass, referred to as the Douglas or Fort Victoria Treaties. Later colonial administrations denied their existence and made no parallel settlements with First Nations living on the mainland colony. The policy established by the Royal Proclamation of 1763 was not applied to British Columbia either before or after it joined Canada in 1871. Indeed, with the exception of Treaty 8 (1899), which covered the remote northeastern corner of the province, no treaties or title extinguishments were made with First Nations in British Columbia until the Nisga'a Agreement in 2000. In 1997 Canada's Supreme Court called for a retrial of a 1991 claims case (*Delgamuukw*) and established an important new precedent for Native peoples across Canada when it insisted that aboriginal oral testimony be given the same value as documentary evidence in any future land and rights claims cases. Agreements, however, have been slow to emerge.

The Indian Act and the Rights of Status Indians

One of the key forces behind Canada's Indian policy is its Indian Act. The Indian Act is a far-reaching collection of statutes and legislation administered by the federal government that encompasses practically every aspect of Indian existence, including the definition of who is an Indian. Métis scholar Olive Dickason explained that whereas treaties aimed to accommodate through mutual agreement, the Indian Act imposed control, restricted, and constrained Indians. The legal category of "Indian" (known as status Indian) was similar to that of a legal minor and was first created in 1850. This statutory definition incorporated ancestry, residency, and culture rather than only blood quantum (the percentage of Native blood an individual possesses due to bloodlines) to define Indianness, and therefore who is subject to the Indian Act. Since the 1876 Indian Act, the first after the country's creation, the act has undergone numerous revisions and amendments, but many of its structures remain intact to this day.

Unlike the United States, which recognizes the collective identity of American Indians at the tribal level, Canadian Indian policy has operated based on definitions of Indians at the individual level. The "Indian band" became the unit for managing those individuals, regardless of what collective identity (house, clan, village, tribe, etc.) Natives had for themselves. Until 1951 Indian bands were also, by law, male political units. By the early twenty-first century, Canada had over six hundred Indian bands run by elected band councils. Band membership is established by Native band councils

themselves, but the federal government must first recognize the band.

The extension of the full rights of British subjects or Canadian citizenship to aboriginal people was a contested issue. In 1857 the United Province of the Canadas passed the Gradual Civilization Act that granted the rights of British subjects to adult Indian males who achieved certain moral and educational criteria. As the act's intent was "civilized" Indians, it extended political rights while it simultaneously revoked Indian status. In 1869 the Gradual Enfranchisement Act continued the provisions for Indian men, but stated that Indian women lost their status through marriage to a non-Indian (nonstatus Indian, Métis, or Euro-Canadian). This gender discrimination was incorporated into the Dominion of Canada's first Indian Act (1876), which consolidated existing British American and Canadian Indian policy. The Canadian version of the American Bureau of Indian Affairs, the Department of Indian Affairs or DIA (later called Indian and Northern Affairs Canada) was created in 1880 and dedicated a bureaucracy to this task. Native peoples openly resented attempts to "civilize" or assimilate them into mainstream Canadian society, and few voluntarily participated. Canadian citizenship separate from that of the British was not created until 1947 and Indians were initially excluded. Only in 1960 were federal voting rights and Canadian citizenship extended to all status Indians without having to relinquish their status.

For many years, Native women disproportionately lost their status because of the gender biases built into the Indian Act. In the 1970s high profile legal challenges by aboriginal women, increased activism in general, and the inclusion of aboriginal peoples in the Canadian Charter of Rights and Freedoms (1982) finally resulted in changes in the law. In 1985, Bill C-31 removed the gender discrimination clause from the Indian Act and permitted those who had lost their Indian status previously because of this policy to reapply for it. By 2001, over 100,000 individuals had regained their lost status through this provision, nearly three-quarters of them women. Yet the provision created by Bill C-31 remains flawed. Moreover, because reserve resources are often limited, many bands have been reluctant to accept those who have regained their status under Bill C-31 as band members.

Reserves and Native Governments

In Canada, Indian reserves were created by three methods: executive act, treaty, or purchase. There are no Inuit or Métis reserves, with the exception of several Métis settlements

established in Alberta in the late 1930s. Canada's most populous Indian reserve was established for the Haudenosaunees (Iroquois) in 1784 through executive order. The lands for this reserve, located along the Grand River in the southwestern portion of the colony of Upper Canada (now Ontario), was first purchased from an Anishinabe (Ojibwe) group, the Mississaugas, as per the policy laid out by the Royal Proclamation of 1763. In contrast, Indian reserves in British Columbia were created without any cession of Indian title. Many Indian reserves remain Crown lands held in trust by the Canadian government, even though they are administered by local band governments. The few exceptions where fee-simple title (complete ownership) has been granted to a band are a recent development, largely the byproduct of modern treaty settlements or, more rarely, through agreements made without treaties (for example, the Sechelt band of British Columbia secured reserve ownership and municipal-like self-government in 1986). Compared with the reservations of the United States, Canadian Indian reserves are confined to much smaller tracts of land. They vary in size, some only a few acres in scope while the largest is 525 square miles (or 336,717 acres). Only status Indians may live on Indian reserves.

By the late nineteenth century, reserve lands deemed surplus or idle were often alienated by federal, provincial, or municipal authorities without Native consent. In many provinces and territories, Indians were exempt from acquiring land and hence could not easily add to their reserves. Moreover, through enfranchisement, reserve lands could be allotted to individuals by the DIA (working in much the same way as the General Allotment Act, or Dawes Act, in the United States). Even when reserve lands were not reduced in size or taken away, the extraction of resources such as timber, minerals, or water from Indian land was brought about through the practice of leasing. There have been numerous instances of Indian bands not receiving fair compensation for such uses, and after *Guerin v. Regina* in 1984, Canada has admitted it has a responsibility to aboriginal peoples to act in their best interests in reserve-leasing. However, social services like health and education on Indian reserves remain underfunded, underserved, and inadequate. Most Indian reserves cannot be taxed, mortgaged, used as collateral, or seized for debt (conditions which hamper bands' ability to generate capital based on land).

Throughout the late nineteenth and the early twentieth-century, coercive assimilation of Indians was accomplished largely through legislation rather than violence. Starting in

the 1880s, and administered by the DIA, amendments to the Indian Act introduced elected band councils and banned a number of religious and cultural practices, such as the potlatch and the sun dance. The sale of alcohol to status Indians was forbidden, and in some areas a pass system required that Indians obtain permission from Indian agents for travel. As with U.S. Indian policy, which expressed a distrust of tribal collectivities and unsettled lifestyles, Canadian policy likewise pursued assimilation by means of "the Bible and the plough." Christian missionaries prompted the destabilization of Native societies and directly attacked traditional culture. However, their efforts were never total, and the use of Christianity in the service of cultural preservation by aboriginal Christians demonstrated that conversion could be a tool of Indian survival. Indian agriculture was encouraged by the Canadian government, although contrarily much was done to discourage commercial farming or ranching success among Indians.

The equivalent to American Indian boarding schools in Canada were known as "residential schools." These institutions were jointly operated by churches and the federal government and targeted primarily Indian children (although after 1951 there were also residential schools for Inuit students). By the 1920s and 1930s, compulsory attendance laws were included in the Indian Act, compelling Indian children to remain in residential schools until the age of eighteen. In another government-led movement to assimilate aboriginal peoples, some Indian children were removed from their homes and adopted or placed in foster care with white families. Popularly known as the "stolen children" or the "sixties scoop," after the decade in which it peaked, over fifteen thousand children were seized by the government in the 1950s–1970s. The practice of taking Indian children from their families finally declined in the 1980s. The legacy of the stolen children and Indian residential schools in Canada is one of dysfunction; cultural destruction; and physical, sexual, and mental abuse. In the 1990s all the major Protestant and Catholic churches that had run residential schools issued formal apologies, as did the Canadian government. In 1998 the latter pledged \$350 million to facilitate healing among Canada's Native peoples and especially for residential school survivors.

Changes in the Mid-Twentieth Century

Despite the assumption that the "Indian problem" could be solved only through integration into the mainstream culture, Canadian Indian policy guaranteed Indians remained wards

of the state, separated and excluded from Canadian society. Indians actively resisted this colonialism. In the early twentieth century, when Native peoples lobbied Canadian and British authorities, presented petitions, sought audiences with the king of England, and generally asserted their own claims to sovereignty, Canada responded to stifle their actions. In 1922 the little-enforced prohibition against the potlatch (banned 1884–1951) on the Pacific coast was applied in a dramatic raid and mass arrest of hosts and guests at a Kwakwaka'wakw (Kwakiutl) potlatch at Alert Bay, British Columbia. In 1924 the traditional hereditary leadership of the Haudenosaunees (Iroquois) in Grand River, Ontario, was forcibly removed and an elected council installed in its place. In a 1927 amendment to the Indian Act it became illegal to raise funds, use band funds, or hire a lawyer for the purposes of pursuing Native land claims in Canada. This remained in effect until 1951, and was one of the leading reasons behind the absence of any new treaties in Canada between 1923 and 1973. The Canadian government's reluctance take on the financial responsibilities of treaties was another.

A parliamentary inquiry from 1946–1948 into Canadian Indian policy was highly critical of past and current practices, and led to major revisions to the Indian Act in 1951. The ban on Indian land claims and alcohol use and prohibitions against Native cultural and ceremonial practices were finally dropped from the new version of the act, and for the first time women were allowed to vote in band elections. Yet, at its heart the contemporary Indian Act remains the principle tool for assimilation and is fundamentally similar to the 1951 version.

A profound shift in Canadian Indian policy occurred in the late 1960s and early 1970s. In 1969 Prime Minister Pierre E. Trudeau proposed sweeping changes presented in the form of a parliamentary paper (the White Paper). Much like the U.S. termination policy of the 1950s and 1960s, the White Paper proposed assimilation through the dissolution of the Indian Act and Indian status, the cancellation of treaties, and an end to any legal responsibilities for First Nations. This policy was supposed to have been developed in consultation with Native peoples, but there was widespread dissatisfaction, even a sense of betrayal, over the proposed changes. The National Indian Brotherhood of Canada complained that were they to adopt such a policy it would be akin to partnership in Indian cultural genocide. The Alberta Indian Brotherhood countered with its own proposal, *Citizens Plus* (also dubbed the Red Paper), advocating

mutually negotiated arrangements, like treaties, rather than unilaterally imposed wardship for Indian peoples in Canada. The original plan to phase out the Indian Act, DIA, and treaties was abandoned and the policies laid out in the White Paper were repealed.

Instead, the 1970s ushered Canada into a new era of modern aboriginal rights and land agreements, beginning in 1973 with the Calder case. This case was brought before the Supreme Court of Canada by the Nisga'a First Nation of northern British Columbia, a group which had never signed treaties with the British or Canadians, and claimed unextinguished title to their home territory along the Nass River. Although a split decision (three judges opposed, three judges in favor, one judge abstained), the insistence by at least three Supreme Court justices that colonial, federal, or provincial legislation could not remove aboriginal rights became the basis on which comprehensive claims in Canada came to the forefront.

Broadly speaking there have been two categories of Native land claims since the 1970s: specific and comprehensive. Specific claims refer to claims stemming from existing treaties or agreements (such as the failure to fulfill treaty promises or differences in interpretation for expected action). Comprehensive claims encompass those areas without any previous treaties or cession of Native rights. Although the Canadian government created a claims resolution office in 1974 to help streamline the process, most scholars agree that Aboriginal initiative and assertiveness brought about modern treaty making. The first comprehensive claim to be settled in Canada was the James Bay and Northern Quebec Agreement (Cree, Inuit) in 1975. Their agreement is considered to be the first aboriginal self-government legislation in Canada (a very late development when compared to American Indian self-government), although some might point to the Cree-Naskapi Act of Quebec, in 1984, as even more groundbreaking because it replaced the Indian Act in the regions it encompasses. Other notable modern agreements included the Northeastern Quebec Agreement (1978), Inuvialuit Final Agreement (1984), Gwich'in Agreement (1992), Nunavut Land Claims Agreement (1993), Sahtu Dene and Métis Agreement (1994), Agreement Covering 14 Yukon First Nations (2002), and the Nisga'a Agreement (2000). Despite the apparent resolution of many claims cases, it is significant to note that approximately half of the landmass of Canada has never been ceded by aboriginal peoples through treaties. This fact makes any court decisions as much political decisions as they are legal ones.

Constitutional Recognition and Recent Developments

The acknowledgment of aboriginal peoples in Canada's Constitutional Act (1982) was a major achievement in the struggle for aboriginal rights in Canada. Section 35(1) affirms and recognizes existing aboriginal and treaty rights, while section 35(2) enshrines Indians, Inuit, and Métis people as Canada's three aboriginal peoples. As political scientist Alan Cairns stated, the "constitutionalization" of aboriginal rights marked the end of wardship and assimilation as the central objectives of Canadian Indian policy. Despite the recommendations of a royal commission in the 1993 Penner Report that self-government be granted to those willing Indian communities, it remains unclear whether the acknowledgements in the Canadian Constitution include political self-determination. Indeed, the first test case of exactly what existing Aboriginal rights were constitutionally guaranteed came in a fishing rights case from British Columbia (*Sparrow v. Regina*, 1990). Canada's Supreme Court ruled that aboriginal rights exist even in the absence of treaties, that colonial or provincial legislation cannot nullify these rights, and that legislation negatively impacting Native peoples can only be applied when justified (such as for conservation of a resource). Also in 1990 with the *Sioui* case ruling by Quebec's Supreme Court, aboriginal rights were again recognized in the absence of treaty rights. In this case, guarantees for safe passage and rights to religious, cultural, and commercial practices authorized by the British in the final days before the fall of New France were deemed "treaty rights" and were entitled to the aboriginal peoples in the province (particularly the Huron) of present-day Quebec. Neither case, however, spoke to the issue of self-government.

Moreover, confrontations, blockades, and armed occupations in pursuit of land claims remained parallel developments in Canada despite these achievements in the courts and by legislation. The most high-profile of these, the 1990 "Oka Crisis," involved centuries-old unresolved land claims of Mohawks of Kanesatake and the Quebec town of Oka, east of Montreal. When plans for the expansion of a golf course threatened sacred land and a burial ground, tensions escalated as armed Mohawks erected barricades around their territory and a police officer was killed. The provincial police, Royal Canadian Mounted Police, and finally the Canadian army were called in. Other Indian bands in the region, particularly the Mohawks at Kahnawake, joined in an

act of solidarity and were met with racist hostility by many Montreal citizens after the Indians blocked a major bridge and highways into the city. After seventy-eight days the Oka standoff was ended peacefully by the Mohawks, although aside from changes to Indian policing policy, none of their claims were definitively settled.

Has Canada's Indian policy been a success or failure? In terms of its attempt for the last 150 years to eliminate the "Indian problem" by absorbing Indians into mainstream Canadian society through disempowerment and confinement, it has failed. Canada's record for redressing historical claims among its aboriginal citizenry has been poor, and the persistence of Indians in the pursuit of their rights to lands, resources, and freedom of cultural expression has been largely in spite of the official policy. The Royal Commission on Aboriginal Peoples in the early 1990s examined the unfairness of the historic and contemporary Canadian Indian experience. The five-volume, 3,537-page report completed in 1996 contained a critical and condemnatory review of the past and current exercise of Canadian Indian policy, citing practices that were nothing short of colonialism. Although many of its 440 recommendations have received little public or government attention so far, it marks a movement toward Canada's admission of the inappropriateness of its assimilationist, coercive, and restrictive policies for its Indian peoples.

See also *Assimilation and Acculturation*; *Jay's Treaty*; *Missions and Missionaries*.

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BIBLIOGRAPHY

- Borrows, John. *Recovering Canada: The Resurgence of Indigenous Law*. Toronto: University of Toronto Press, 2002.
- Cairns, Alan. *Citizens Plus: Aboriginal Peoples and the Canadian State*. Vancouver: University of British Columbia Press, 2000.
- Carter, Sarah. *Lost Harvests: Prairie Indian Reserve Farmers and Government Policy*. Montreal and Kingston: McGill-Queen's University Press, 1990.
- Dickason, Olive Patricia. *A Concise History of Canada's First Nations*. New York: Oxford University Press, 2006.
- Frideres, James, and René Gadacz. *Aboriginal Peoples in Canada: Contemporary Conflicts*. 7th ed. Toronto: Prentice Hall, 2004.
- Miller, J. R. *Skyscrapers Hide the Heavens: A History of Indian-White Relations in Canada*. Toronto: University of Toronto Press, 2000.
- Ray, Arthur J. *I Have Lived Here Since the World Began: An Illustrated History of Canada's Native Peoples*. 2nd ed. Toronto: Key Porter Books, 2005.
- The Report of the Royal Commission on Aboriginal Peoples*. Ottawa: The Queen's Printer, 1996. www.ainc-inac.gc.ca/ch/rcap/index_e.html.

Titley, E. Brian. *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada*. Vancouver: University of British Columbia Press, 1996.

Treaty 7 Elders, with Sarah Carter, Walter Hildebrandt, and Dorothy First Rider. *The True Spirit and Original Intent of Treaty 7*. Montreal and Kingston: McGill-Queen's University Press, 1996.

Carleton, James Henry

James Henry Carleton (1814–1873) was an officer in the Union Army during the Civil War (1861–1865) and led American forces that interned Navajos and Apaches at the notorious Bosque Redondo reservation in the 1860s.

Carleton was born on December 27, 1814, in Lubec, Maine, and served in the Maine militia during the Aroostook War, the 1838 border dispute with Canada. He was commissioned in the U.S. Army in 1839 and stationed in Indian Territory in 1841, where he was involved in recapturing slaves taken in Indian raids and in attempts to end the Indian liquor trade. In 1842 he was responsible for the construction of Fort Croghan in Nebraska. After serving in the U.S.-Mexican War (1846–1848), he led the 1st U.S. Dragoons in New Mexico. Carleton's outfit was responsible for a railroad survey expedition and led troops against the Jicarilla Apaches. In 1858 he headed an investigation of the Mountain Meadows Massacre, in which a group of Mormons murdered over 120 Arkansan migrants.

Carleton began the Civil War as commander of the 1st California Volunteer Regiment. Along with pushing the Confederates in New Mexico and Texas to the east, he attacked and defeated Cochise's Chiricahua Apaches and Mangas Coloradas's Mimbreno Apaches at the Battle of Apache Pass in July of 1862. He established Fort Bowie to protect against Confederate incursions through the pass. In August his forces defeated the Mescalero Apaches; Carleton ordered the killing of all Mescalero men and the removal of the women and children to the new reservation at Bosque Redondo.

In the spring of 1863 he attacked the Navajo camps aligned with Manuelito, the resistance leader. This fighting ended at Canyon de Chelly, where men under the command of Carleton's field commander, Colonel Christopher "Kit" Carson, defeated the Navajo resistance. After the battle, Carleton ordered the Navajo, about eight thousand in all, on the "Long Walk" to Bosque Redondo. (In 1868 the Navajos were allowed to return to their homeland.) In 1864 troops under Carleton claimed to have defeated a large group of Kiowas and Comanches at the Battle of Adobe Walls in

Texas, although his army was driven from the field by a superior Indian force.

Carleton became infamous for his brutal tactics, for refusing to discuss surrender terms with the Indians, and for ordering the destruction of the men of the resisting tribe. Carleton wrote several books on his military experiences. He died on January 7, 1873.

See also *Bosque Redondo*; *Carson, Christopher "Kit"*; *Cochise*; *Mangas Coloradas*; *Mountain Meadows Massacre*; *United States-Indian Wars (1848-1891)*.

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BIBLIOGRAPHY

Carleton, James Henry. *Mountain Meadows Massacre: A Special Report*. Spokane: Arthur H. Clark Co., 1995.

Hunt, Aurora. *James H. Carleton, 1814-1873: Western Frontier Dragoon*. Glendale, Calif.: Arthur H. Clark Co., 1958.

Thompson, Gerald. *The Army and the Navajo: The Bosque Redondo Reservation Experiment, 1863-1868*. Tucson: University of Arizona Press, 1976.

Carlisle Indian School

The Carlisle Indian School was an educational institution established in the late nineteenth century as part of attempts to assimilate Indians into mainstream American society. Its roots began in 1878 when Union Army lieutenant Richard Henry Pratt brought seventeen Indian men from Florida to Hampton Normal School in Virginia. The Native Americans had been held under Pratt's supervision at Fort Marion in Florida, and once they had served their term, they agreed to attend the freedmen's school at Hampton along with African Americans. Pratt quickly decided that Indians should not mix with blacks, and petitioned the government for a separate institution. In 1879 Secretary of the Interior Carl Schurz authorized a boarding school specifically for Indians at an abandoned army barracks in Carlisle, Pennsylvania. A second off-reservation boarding school was approved that year and opened in 1880 at Pacific University in Forest Grove, Oregon. That school moved in 1884 to become Chemawa Indian School in Salem, Oregon.

Pratt and his contemporaries believed that compulsory Indian education in schools near white communities would solve the country's problems with its noncompliant Native peoples. His methods included removal of Indian children from tribal influences, physical transformation of Natives with "white" clothes and haircuts, military discipline, agricultural and industrial instruction for boys, domestic training for girls, and the elimination of any language but English.

Students in the “outing” program were sent to work for local white families. Pratt’s formula for Indian education was applied at government boarding schools throughout the nation. Over ten thousand students from reservations and villages all over the United States and Alaska were sent to Carlisle until it closed in 1918.

See also *Assimilation and Acculturation; Chemawa Indian School; Education: Boarding Schools; Hampton Normal and Agricultural Institute; Pratt, Richard Henry.*

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BIBLIOGRAPHY

- Adams, David Wallace. *Education for Extinction: American Indians and the Boarding School Experience, 1875–1928*. Lawrence: University Press of Kansas, 1995.
- Pratt, Richard Henry. *Battlefield and Classroom: Four Decades with the American Indian, 1867–1904*. Lincoln: University of Nebraska Press, 1987.
- Standing Bear, Luther (Ota Kte). *Land of the Spotted Eagle (1933)*. Lincoln: University of Nebraska Press, 1978.

Carson, Christopher “Kit”

Well-known soldier and Indian agent Christopher “Kit” Carson (1809–1868) was born in Richmond, Kentucky. In 1824, he traveled to the New Mexico territory and established himself as a trapper and guide. Between 1842 and 1845, John C. Frémont employed him on three separate expeditions to map routes throughout the American Southwest to the Pacific coast. During this period, Carson befriended many Indian tribes throughout the area. Made famous by Frémont’s accounts of the expeditions, Carson was appointed by the United States as an Indian agent at Taos, New Mexico, in 1854.

When the Civil War (1861–1865) erupted, Carson resigned the position to command the First New Mexico Volunteers and helped organize volunteer units for the Union cause. The primary duty of the units, however, was to subdue unrest among the Indian tribes in New Mexico and Texas. In 1863, Carson launched a successful campaign against Navajos resisting white encroachment. Securing victory at Canyon de Chelly, Carson force-marched the defeated Navajos to the Bosque Redondo (Fort Sumner, New Mexico) in the spring of 1864. Sent to western Texas later that same year, Carson faced a combined force of Comanches, Kiowas, and Cheyennes at the Battle of the Adobe Walls. Carson’s victory, along with Colonel John Chivington’s 1864 defeat of Black Kettle and other

Cheyennes at Sand Creek, Colorado, forced the tribes to sign the Little Rock Treaty in 1865.

For his gallantry and distinguished conduct in the Indian campaigns, General James H. Carleton recommended Carson for the rank of brevet brigadier general in October 1865. After retiring to Fort Lyon, Colorado, Carson died from an aortic aneurysm on May 23, 1868.

See also *Bosque Redondo; Carleton, James Henry; Sand Creek Massacre (1864).*

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BIBLIOGRAPHY

- Boraas, Tracey. *Kit Carson: Mountain Man*. Mankato, Minn.: Bridgestone Books, 2003.
- Carson, Kit. *Kit Carson’s Autobiography*. Lincoln: University of Nebraska, 1935.
- Dunlay, Thomas W. *Kit Carson and the Indians*. Lincoln: University of Nebraska Press, 2000.
- Roberts, David. *A Newer World: Kit Carson, John C. Frémont, and the Claiming of the American West*. New York: Simon & Schuster, 2000.

Carter, Jimmy

Jimmy Carter (1924–), U.S. president from 1977 to 1981, signed several pieces of legislation that directly benefited American Indians and Native Alaskans. Carter, a native of Plains, Georgia, served as a representative in the state legislature and, from 1971 to 1975, as governor of Georgia. He was elected president of the United States in 1976.

Among the significant acts completed during his presidency were the American Indian Religious Freedom Act (1978), which acknowledged the right of Native people to practice their own spiritual beliefs; the Tribally Controlled Community College Act (1978), which authorized federal support to those institutions; the Alaska National Interest Land Conservation Act (1980), which dramatically expanded national park acreage in that state, some of which was occupied by Native Alaskan groups; and the Indian Child Welfare Act (1978), which gave tribes a voice in child custody hearings and aimed to keep parentless Native children with their tribes.

Carter’s administration also attempted to resolve outstanding land claims with tribes in the eastern United States. For instance, in 1980 Carter signed the Maine Indian Land Claims Settlement Act, which provided compensation for the historical property claims of several tribes in the state. It was also during Carter’s term that the federal government recognized the Tucson Pascua Yaquis.

Carter strongly supported the protection of Native water and fishing rights; in 1978 he asked Congress to study ways to allocate water resources fairly among the states and the Indian tribes. He also made a symbolic statement when he elevated the office of commissioner of Indian affairs to assistant secretary level and appointed Forest J. Gerard, an enrolled member of the Blackfeet tribe of Montana, as the first assistant secretary of the interior for Indian affairs.

While some scholars and Native leaders have praised Carter for these accomplishments, others have criticized him for failing to give greater attention to the Indian Self-Determination and Education Assistance Act (1975) and for attempting to reduce spending on other Native programs.

See also *American Indian Religious Freedom Act (AIREA) of 1978; Indian Child Welfare Act; Indian Self-Determination and Education Assistance Act of 1975; Tribally Controlled Community College Assistance Act of 1978.*

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BIBLIOGRAPHY

- Carter, Jimmy. *Keeping Faith: Memoirs of a President*. New York: Bantam Books, 1982.
- Castile, George Pierre. *Taking Charge: Native American Self-determination and Federal Indian Policy, 1975–1993*. Tucson: University of Arizona Press, 2006.
- Kaufman, Burton Ira, and Scott Kaufman. *The Presidency of James Earl Carter, Jr.* Lawrence: University Press of Kansas, 2006.

Cass, Lewis

Lewis Cass (1782–1866) served as the secretary of war under Andrew Jackson and played a prominent role in implementing the United States's removal policy.

Cass was a prominent Democratic leader from the Old Northwest and had a political career that spanned over fifty years. He began as a prosecuting attorney and went on to serve as a state legislator, federal marshal, and army officer. He was appointed civil governor of the Michigan Territory by James Madison in 1813 and served in that capacity until 1831.

Through his military experience and tenure as civil governor, Cass earned a reputation among his contemporaries as one of the best informed and experienced Indian policy experts in the country. As superintendent of Indian affairs, a concurrent role held by all territorial governors, he gained first-hand experience negotiating treaties and brokering relations with tribes in the Great Lakes region. He was a significant participant in a majority of the treaties that reduced

tribal land bases during his terms as governor and was singularly responsible for negotiating those treaties. In political circles, Cass was viewed as a fair but determined negotiator who regularly traveled throughout the territory.

Cass wrote a series of essays examining the relationship between the federal government and the tribes. His most important essay, published in January 1830, was the first advocating removal that was written by an expert in Indian affairs to appear in the popular press since the election of Jackson as president in 1829.

Jackson's election ushered in a new era in federal Indian policy, and in 1831 he appointed Cass as his secretary of war. Cass supervised the removal of the eastern tribes to the trans-Mississippi lands and was one of the ideological architects of the removal policy. The roots of the policy were founded on the assimilationist ideals embraced by Thomas Jefferson, Henry Knox, and others. Cass and his contemporaries believed the American Indian was at an early stage in human development, the hunter state, a period Europeans had successfully passed through millennia earlier. The policy he implemented in his role as territorial governor supported programs that would lead the Indian tribes out of their cultural "savagery." Cass and many others believed that this was the most humanitarian approach to the Indian problem and the only way the Indians would survive. Cass proposed that the federal government was obligated to assist willing tribes on their path toward "civilization." Those tribes that refused this assistance were seen as a threat and would be dealt with militarily. Political necessity quickly outweighed all other concerns, however. The increasing demand for lands east, and the acquisition of territories west, of the Mississippi River demanded a change in the Jeffersonian approach. Cass, like other pro-assimilationists, did not abandon his goals, but rationalized that federal programs would fail as long as the Indians lived too close to the corrupting forces of white populations. Removing tribes west of the Mississippi would, according to the humanitarian supporters of removal, provide an environment that would allow missionaries to do their work. Peaceful co-existence, they believed, was not possible.

As secretary of war, Cass inherited the responsibility of implementing the Indian Removal Act of 1830 and used his power to favor those Indians who went along with the assimilation and removal policies of the federal government. One example of this was in his allocation of smallpox vaccinations to those tribes who were involved in favorable treaties with the United States. Cass refused vaccinations to

tribes along the Upper Missouri River because they were no longer economically important to U.S. trade, and because they were considered beyond “civilizing.”

A loyal supporter of Jackson, Cass served as his secretary of war until designated the U.S. minister to France. Cass and his family were living in Paris during the summer of 1837, when a smallpox epidemic killed untold thousands of unvaccinated American Indians located along the Upper Missouri River. Cass returned to the United States in 1842, where he lost a bid for the presidency in 1848.

See also *Assimilation and Acculturation; Indian Removal Act (1830); Jackson, Andrew; Removal.*

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BIBLIOGRAPHY

- Hewlett, Richard G. “Lewis Cass in National Politics, 1842–1861.” Ph.D. diss., University of Chicago, 1952.
- Klunder, Willard Carl. “Lewis Cass.” *Michigan History*, vol. 75 (January/February 1991): 12–21.
- . “Lewis Cass and Slavery Expansion: ‘The Father of Popular Sovereignty’ and Ideological Infanticide.” *Civil War History*, vol. 32 (December 1986): 293–317.
- . *Lewis Cass and the Politics of Moderation*. Kent, OH: Kent State University Press, 1996.
- . “The Seeds of Popular Sovereignty: Governor Lewis Cass and Michigan Territory.” *Michigan Historical Review*, vol. 17 (Spring 1991): 65–81.
- Pearson, J. Diane. “Lewis Cass and the Politics of Disease: The Indian Vaccination Act of 1832.” *Wicazo Sa Review*, vol. 18, no. 2 (Fall 2003): 9–35.
- Woodford, Frank Bury. *Lewis Cass: The Last Jeffersonian*. 1950. Reprint. New York: Octagon Books, 1973.

Cayuse War (1848–1855)

The Cayuse War (1848–1855) grew out of the Whitman Massacre, which occurred in Oregon Territory on November 29, 1847. Reverend Marcus Whitman had established the first mission among the Cayuses more than a decade earlier, but some Cayuses became suspicious of him and the increasing number of settlers who had traveled to Oregon since his arrival, bringing with them measles and advancing on Indian land. Some Cayuses believed Whitman was partially responsible and had helped settlers overcome disease while secretly poisoning Indians. These beliefs led a small band of discontented Cayuses to attack Whitman’s mission, killing more than a dozen settlers, including Reverend Whitman and his wife, and taking more than forty captives.

Response to the attack was swift. Within a month the captives were successfully ransomed. The territory’s provi-

sional legislature raised a force of 550 militiamen and created a three-person peace commission. Because not all the Cayuses had favored the Whitman raid, the hope was that the Cayuses responsible would be willingly turned over by their people.

Ultimately, the peace commission failed because the militia interfered with its efforts. Small fights broke out in January 1848. Cayuse renegades were splintered and found reinforcements from the Nez Perce, Walla Walla, Umatilla, and Palouse tribes. This group, comprised of more than four hundred warriors, made its stand on February 24, 1848, in the Battle of Sand Hollow. The battle was a failure for the Cayuses, who lost several men and, more importantly, were unable to recruit more warriors to their cause because of this loss. The militia continued to pursue the Cayuses and by month’s end had killed more than twenty warriors. Although more small fights took place over the next few weeks, the militia’s efforts to capture those responsible for the Whitman Massacre were unsuccessful, and by June 1848 the militia had disbanded and the Cayuses scattered—both physically and politically.

The hunt for those responsible for the massacre, however, did not end. In the eighteen months following the disbanding of the militia, Oregon became a territory and its new government, along with U.S. representatives, pressured the Indians in the area (including the Cayuses) to find those responsible.

By December 1849 Red Wolf (Nez Perce) had captured five Cayuse warriors believed to be the only survivors of the original band that attacked the mission two years earlier. In May 1850 the men stood trial for their crimes and were sentenced to death. They were hanged on June 3, 1850, and, with their deaths, the last chapter of the Cayuse War ended.

See also *Whitman Massacre (1847).*

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BIBLIOGRAPHY

- Axelrod, Alan. *Chronicle of the Indian Wars: From Colonial Times to Wounded Knee*. New York: Prentice Hall, 1993.
- Glassley, Ray H. *Pacific Northwest Indian Wars*. Portland, Ore.: The Metropolitan Press, 1953.
- Ruby, Robert H., and John A. Brown. *The Cayuse Indians: Imperial Tribesmen of Old Oregon*. Norman: University of Oklahoma Press, 2005.
- . *The Spokane Indians: Children of the Sun*. Norman: University of Oklahoma Press, 1970.
- Utley, Robert M., and Wilcomb E. Washburn. *Indian Wars*. Boston: Mariner Books, 2002.

Census

The U.S. Constitution provides that the federal government take a census every ten years for the purpose of apportioning delegates in the House of Representatives. The Constitution also states that “Indians not taxed,” a category that lawyers and government officials found difficult to define, should not be counted for the apportionment process. For this reason, for many decades the Census Bureau did not make a serious effort to include Native peoples in their enumerations. It is thus difficult for demographers to describe the history of the Native American population in the United States. After the government started counting Indians in 1850, difficulties in identifying the Native popu-

lation were complicated by the isolation of some of them, the undercounting of the communities that census takers visited, and the fact that many Native people tried to pass as white to avoid discrimination. Counting Native Americans continues to be difficult because individuals can now self-identify their ethnicity.

Most colonial censuses did not count Native Americans. In nineteen estimates of the Plymouth colony’s population before 1690, for instance, only one included Native residents of the area. Some counts were taken for military purposes; colonial governments were often concerned with how many warriors tribes could offer in a war. Demographers today have used these counts to estimate the Native population during the colonial period.

Table 1. American Indian and Alaska Native Population by Selected Tribal Grouping, 2000

Tribal Grouping	American Indian and Alaska Native alone		American Indian and Alaska Native alone or in combination	
	Number	Percent of U.S. Population	Number	Percent of U.S. Population
Total	2,447,989	0.87	4,315,865	1.53
American Indian, one tribal grouping¹	1,770,046	0.63	2,883,803	1.02
Apache	57,199	0.02	104,556	0.04
Cherokee	302,569	0.11	875,276	0.31
Chippewa	110,857	0.04	159,744	0.06
Choctaw	88,692	0.03	193,314	0.06
Creek	40,487	0.01	76,159	0.03
Iroquois	47,746	0.02	89,371	0.03
Lumbee	52,614	0.02	59,488	0.02
Navajo	276,775	0.10	309,575	0.11
Pueblo	59,621	0.02	73,687	0.03
Sioux	113,713	0.04	167,869	0.06
Alaska Native, one tribal grouping²	96,998	0.03	120,766	0.04
Alaska Athabaskan	14,700	0.01	18,874	0.01
Aleut	12,069	—	17,551	0.01
Eskimo	47,239	0.02	56,824	0.02
Tlingit-Haida	15,212	0.01	22,786	0.01
One or more other specified tribal groupings³	755,799	0.27	1,279,089	0.45
Tribal grouping not specified⁴	452,697	0.16	1,017,222	0.36

Notes: Data based on sample. For information on confidentiality protection, sampling error, nonsampling error, and definitions, see www.census.gov/prod/cen2000/doc/sf4.pdf. For the 14 specific tribal groupings listed (Apache through Sioux and Alaska Athabaskan through Tlingit-Haida), the alone population includes people who reported that one tribal grouping only. The corresponding alone-or-in-combination population also includes people who reported one or more tribal groupings and one or more races.

— Rounds to zero.

¹ The alone population includes people who reported only one American Indian tribal grouping. The corresponding alone-or-in-combination population includes people who reported one American Indian tribal grouping and one or more races.

² The alone population includes people who reported only one Alaska Native tribal grouping. The corresponding alone-or-in-combination population includes people who reported one Alaska Native tribal grouping and one or more races.

³ The alone population includes people who reported one or more American Indian or Alaska Native tribal groupings not listed above or elsewhere classified and no other race, and people who reported 2 or more of the 14 specific tribal groupings listed above (Apache through Sioux and Alaska Athabaskan through Tlingit-Haida) and no other race. The corresponding alone-or-in-combination population includes people who reported one or more other specified tribal groupings regardless of whether they also reported another race.

⁴ The alone population includes people who checked the box “American Indian or Alaska Native” regardless of whether they also reported another race.

Source: U.S. Census Bureau, Census 2000 special tabulation.

In the early nineteenth century, some censuses were undertaken by Indian agencies at the direction of the federal government. In 1809, for instance, Return J. Meigs, an American agent, completed a census of the Cherokee Nation. In 1826 the Cherokee government reported that it had concluded its own census. This count, more thorough than the federal census, demonstrated that many Cherokees were embracing Anglo-American methods and mechanical arts and integrating into the market economy. In 1835 the federal government took a census of the Cherokees in preparation for their removal to the Indian Territory.

The decennial (occurring every ten years) census only began to count Native Americans and report them separately in 1850, when the census bureau undertook a special count of them. This first enumeration, which the Census Bureau declared to be incomplete for its failure to take counts in several states, territories, and tribes, estimated a Native population of slightly more than 400,000 Indians. The 1860 census counted "civilized" Indians but failed to enumerate the number of Native people in Indian Territory and on reservations. Only in 1890 did the Census Bureau begin to enumerate, rather than estimate, the Indian population. The census of 1890 also marked the low point of Native population in the United States.

In the 1890s, the federal government began implementing the Dawes Act, which provided that communally owned Native territories be surveyed and allotted to Native individuals, to instruct them on the value of individual property ownership and prepare them for assimilation. Native Americans therefore needed to be counted in order to divide the land; on reservations Indian agents were told to calculate the Native Americans under their supervision. The enumeration in the Indian Territory led to the Dawes Rolls, which listed those eligible between about 1899 and 1906 for land allotments in the Oklahoma Territory, which was created out of the merged Oklahoma and Indian Territories. Many rumors circulated about the purpose of the rolls, and many Native Americans refused to have their names collected. Moreover, coordination between the federal Census Bureau and the Indian agents was poor; some individuals were skipped while others were counted twice.

In the 1930s, Native tribes were given some degree of power, particularly in terms of controlling their membership. Some tribes, including the Cherokee Nation, now use the rolls as the basis for determining membership. Other tribal nations require applicants to have a certain percentage of Indian blood for membership, which usually means that all

or most of the applicant's ancestors have to be listed on the tribal rolls. Some Native Americans stayed away from the classifications during the Dawes Rolls. Their descendants have difficulty obtaining tribal recognition today.

After reaching its lowest point in 1890, the Native population in the United States began to slowly recover in the twentieth century. By 1950 the census determined that the Native population (including Eskimos and Aleuts) had only grown to 343,000, but from that point it increased dramatically, from 550,000 in 1960 to 827,000 in 1970. By 1990 the number of Native Americans identified in the census had increased to almost 2 million; in 2000 2.4 million identified themselves as only Native American or Alaska Native (a newer, more inclusive term for Eskimo or Aleut). Another 1.7 million identified themselves as both Native American or Alaska Native and another ethnicity.

On the whole, the Native Americans reaction to the census (and towards ethnic classification in general) has been affected by the majority American society. Until relatively recently, many Native Americans identified themselves as white, or would be listed as white, in official counts and on documents, such as birth certificates, to avoid racial prejudice. In the 1960s, the Red Power movement promoted pride in "Indianness," and by the late twentieth century most in the majority society no longer viewed Native Americans as inferior. Also after 1960, the government started allowing individuals to state their own ethnicity. Scholars suggest that these trends, along with decreased infant mortality and increased life expectancy rates, led to the dramatic expansion of the Native population over the last few decades.

See also *General Allotment Act (Dawes Act) of 1887.*

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BIBLIOGRAPHY

- Anderson, Margo J. *The American Census: A Social History*. New Haven, Conn.: Yale University Press, 1990.
- . *Who Counts?: The Politics of Census-Taking in Contemporary America*. New York: Russell Sage Foundation, 1999.
- Strickland, Rennard. *Tonto's Revenge: Reflections on American Indian Culture and Policy*. Albuquerque: University of New Mexico Press, 1997.
- Thornton, Russell. *American Indian Holocaust and Survival: A Population History Since 1492*. Norman: University of Oklahoma Press, 1990.
- . *The Cherokees: A Population History*. Lincoln: University of Nebraska Press, 1992.
- Wilkins, David E. *American Indian Politics and the American Political System*. Lanham, Md.: Rowman & Littlefield, 2007.

Chemawa Indian School

Chemawa Indian School, the first off-reservation boarding school on the West Coast, was authorized by Secretary of the Interior Carl Schurz in 1879. It was originally known as the Forest Grove Indian Industrial and Training School. The school opened in February 1880 at Pacific University, with eighteen young adult students from the Puyallup reservation in Washington State attending. Lieutenant Melville C. Wilkinson, a Congregationalist Union Army officer, was appointed superintendent. He had previously served as aide-de-camp to General Oliver Otis Howard, who led the Freedmen's Bureau after the Civil War (1861–1865) and founded dozens of schools for ex-slaves.

At Forest Grove, the student population grew as more and younger children were sent from Northwest reservations and Alaskan villages. By 1884 additional acreage was needed. The Indian staff and student body donated money for a new school north of Salem. The post office there was named Chemawa after a local band of Kalapuya Indians, and within a few decades the school was known as "Chemawa" as well. The campus expanded to 450 acres but was reduced to 300 in the middle of the twentieth century as roads and freeways were built near the premises.

The curriculum in all off-reservation schools was deliberately designed to acculturate Native people and prepare them for assimilation into white society. The school attempted to separate its students from their tribal ties, traditions, languages, and religions. In the late 1920s and 1930s, the failure of this approach was realized and federal Indian education programs began to attribute some value to Native cultures. By the early twenty-first century, Chemawa was still in existence as an accredited high school serving hundreds of Native students from many Northwest tribes.

See also *Assimilation and Acculturation*; *Carlisle Indian School*; *Education: Boarding Schools*; *Howard, O. O.*; *Pratt, Richard Henry*; *Schurz, Carl*.

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BIBLIOGRAPHY

- Chalcraft, Edwin L., and Cary C. Collins, eds. *Assimilation's Agent: My Life as a Superintendent in the Indian Boarding School System*. Lincoln: University of Nebraska Press, 2004.
- Collins, Cary C. "The Broken Crucible of Assimilation: Forest Grove Indian School and the Origins of Off-Reservation Boarding School Education in the West." *Oregon Historical Quarterly*, vol. 101, no. 4 (2000): 466–507.

Reddick, SuAnn M. "The Evolution of Chemawa Indian School: From Red River to Salem, 1825–1885." *Oregon Historical Quarterly*, vol. 101, no. 4 (2000): 444–465.

Cherokee Advocate

The Cherokee Nation published the first tribal newspaper in America, the *Cherokee Phoenix*, in Georgia between 1828 and 1834. When the tribe removed to the West, they established a second newspaper, the *Cherokee Advocate*, in 1844 with the same aims as its predecessor: presenting useful information to its readers and a positive image of the tribe. Printed in both English and the Sequoyan syllabary, it was designed to appeal to both Native and white readers.

An important duty of the *Advocate* was to publish legal information, including new laws, addresses by the principal chief, reports of the Indian agent and the commissioner of Indian affairs, and proceedings of the National Council. In addition, it published legal notices, including bankruptcy judgments; notices to creditors; and declarations by district judges, sheriffs, and other tribal officials. Its news and editorial columns contained information concerning criminal trials in the Cherokee Nation's district courts, as well as in the federal court at Fort Smith, Arkansas, which had jurisdiction over the Indian Territory in certain matters.

The *Advocate* was often highly political, running not only editorials but correspondence from commentators at home, tribal delegates in Washington, and observations from other newspapers in and around Indian Territory. As the Cherokee Nation became threatened by territorial bills in Congress, threats to national sovereignty, erosion of its land base, allotment of tribal lands in severalty, and other important issues, the newspaper kept its readers, who were often scattered in remote areas, current on legal and political affairs. The paper, which was in circulation until 1906, helped Cherokee citizens formulate policies to defend themselves against hostile actions by the federal government and other interest groups.

See also *Allotment in Severalty*; *Indian Territory*.

James W. Parins

BIBLIOGRAPHY

- Littlefield, Daniel F., and James W. Parins. *American Indian and Alaska Native Newspapers and Periodicals, 1826–1924*. Westport, Conn.: Greenwood Press, 1983.

Cherokee Nation v. Georgia (1831)

Cherokee Nation v. Georgia was an 1831 United States Supreme Court case that established several important principles of federal Indian law. It is the second of three Supreme Court Indian law cases known as the Marshall Trilogy, (along with *Johnson v. McIntosh* (1823) and *Worcester v. Georgia* (1832)). Georgia's desire to remove Cherokees from the state was part of the larger effort by the United States to remove all Indians west of the Mississippi River. *Cherokee Nation v. Georgia* was an attempt by the Cherokees to resist that policy.

In the mid-1820s, Georgia began enacting laws abolishing the Cherokee courts and legislature, dividing Cherokee land among Georgia counties, extending Georgia laws over Indians and other persons in Cherokee country, and invalidating Cherokee laws and political institutions. The Cherokee Nation protested these attempts to drive them from their lands and asked the federal government to fulfill its treaty promises to protect the Cherokee government and homeland. The United States refused, which was no surprise as President Thomas Jefferson's administration had signed an agreement with Georgia in 1802 to remove the Cherokees as soon as possible, despite federal treaty promises. The Cherokee Nation, led by John Ross, its principal chief, turned to the U.S. Supreme Court and sued Georgia to prevent its trespasses and interference in Cherokee governance.

The Court's opinion, however, primarily addressed only the technical issue of jurisdiction. The third article of the Constitution allowed the Court to hear the case against Georgia only if it determined that the Cherokee Nation was a "foreign state." The Cherokee Nation argued that it was a foreign state because its citizens were not citizens of the United States and did not owe allegiance to it. Georgia did not appear to contest the decision.

The majority did agree that Indian tribes were states; that is, they were distinct political and governmental entities capable of managing their own affairs, and that by repeatedly entering into treaties with tribes, the United States had demonstrated its belief that they were states to be dealt with on a political basis. The majority held, however, that tribes were not states "foreign" to the United States. Consequently, Justice John Marshall wrote, the Court did not have jurisdiction to hear the case.

While Marshall's comments were considered the majority opinion, the six members of the Court represented three distinct views on the jurisdiction question. Two justices, Smith Thompson and Joseph Story, concluded that the

Cherokees comprised a foreign nation and could therefore bring suit in federal court. Justices William Johnson and Henry Baldwin argued that the Cherokee Nation was not sovereign and that individual Cherokees were simply subjects of the state in which they lived. Marshall and Justice John McLean forged a compromise between these two positions. They maintained that the Indian tribes were what Marshall described as "domestic, dependent nations." Consequently, a majority of four (Marshall, McLean, Johnson, and Baldwin) believed that the Cherokees did not comprise a foreign government and therefore did not have standing to appear before the Court. It is significant to note that four of the justices (Thompson, Story, Marshall, and McLean) believed that the state of Georgia had violated the rights of the Cherokee Nation.

Marshall elaborated on what he meant by "domestic, dependent nations." By "domestic," he simply meant that the tribes were located within the borders of the United States. He added that as the Indian nations relied on the protection and treaty promises of the federal government, they were "dependent" upon the United States. Marshall noted that foreign nations could not enter treaties or interact with American Indian nations because they were within the United States and under its protection.

Marshall also declared that Indian people were "in a state of pupilage," and, therefore, "wards" of the United States. This was the origin of the principle that the United States owed a trust responsibility to the Indian nations. Notably, the Court relied on several falsehoods in *Cherokee Nation v. Georgia* and falsely stated that the Cherokees relied on the United States for daily sustenance. In fact the Cherokees were primarily a settled, agricultural people who lived in long-established villages under well-established governments and provided for themselves. The nation had its own written language, national newspaper, and laws and constitution. Many Cherokees owned cotton plantations and slaves.

Perhaps most important, Marshall suggested that the Indian tribes were sovereign nations and the United States had repeatedly acknowledged that fact in a series of treaties. Marshall enunciated this position more clearly and boldly in *Worcester v. Georgia* the following year; and the principle of tribal sovereignty set forth in the Marshall Trilogy remains relevant and controlling in contemporary American Indian law.

See also *Johnson v. McIntosh* (1823); *Marshall, John; Removal; Ross, John; Worcester v. Georgia* (1832).

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BIBLIOGRAPHY

- Cherokee Nation v. Georgia*, 30 U.S. (5 Pet.) 1 (1831).
 Garrison, Tim Alan. *The Legal Ideology of Removal: The Southern Judiciary and the Sovereignty of Native American Nations*. Athens: University of Georgia Press, 2002.
Johnson v. M'Intosh, 21 U.S. (8 Wheat.) 543 (1823).
 Miller, Robert J. *Native America, Discovered and Conquered: Thomas Jefferson, Lewis & Clark, and Manifest Destiny*. Westport, Conn.: Praeger Publishers, 2006.
 Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005.
 Norgren, Jill. *The Cherokee Cases: The Confrontation of Law and Politics*. New York: McGraw-Hill, 1995.
 Prucha, Francis Paul. *American Indian Policy in the Formative Years*. Cambridge, Mass.: Harvard University Press, 1961.
Worcester v. Georgia, 31 U.S. (6 Pet.) 515 (1832).

Cherokee Phoenix

The *Cherokee Phoenix* (renamed the *Cherokee Phoenix and Indian Advocate* in 1829) was a weekly newspaper published by the Cherokee Indian Nation from February 21, 1828, to May 31, 1834. Elias Boudinot, a Cherokee formally educated in Connecticut, edited the *Phoenix* and supervised the printing of over 250 editions of the newspaper in the Cherokee capital of New Echota in northwest Georgia. Roughly three-fourths of the articles in the *Phoenix* were published in English; the remainder were written in the Cherokee syllabary developed by Sequoyah in 1821. Though primarily read in the United States, the paper had an international circulation.

Funding for the *Phoenix* came largely from donations from missionary societies, prominent Cherokees, and the Cherokee Nation. The original name of the newspaper signified the rebirth of the Cherokee Nation as it discarded ancient native practices (such as revenge-taking) and adopted Western institutions and lifeways such as legislative government, sedentary agriculture, and writing in an effort to gain acceptance by white Americans. The Cherokees renamed the paper as it evolved into a publication concerned with not only Cherokee affairs but with Native American affairs in general.

Like other newspapers of the day, the *Phoenix* published material on many topics but from a uniquely Native American perspective. The *Phoenix* communicated news, laws, and government notices, as well as religious, social, and political activities, to the far-flung members of the Cherokee Nation. The *Phoenix* also reported on talks held by the Cherokees and other Native American nations with federal and state governments and provided extensive coverage of

the Indian Removal Act of 1830 and the U.S. Supreme Court cases *Cherokee Nation v. Georgia* (1831) and *Worcester v. Georgia* (1832), both of which were highly significant in the history of Cherokee national rights.

Boudinot's early editorials championed Cherokee nationalism and spoke against such issues as the advancement of white settlers onto Cherokee land, the Indian Removal Act, and the inadmissibility of Cherokee testimony in state courts. However, over time, Boudinot came to believe that removal, not assimilation, served Cherokee interests best and his editorials (and many of his news articles) reflected this. Boudinot's change of heart prompted his dismissal as editor by Cherokee leaders opposed to removal. The *Phoenix* continued publication for several more months before going bankrupt.

Efforts to revive the newspaper failed, but fear of a renewal prompted white Georgians to destroy much of its printing equipment and the print shop in 1835. While this silenced what had been a very vibrant voice of Native American culture in the nineteenth-century southeast, the *Phoenix* was reborn in 1844 as the *Cherokee Advocate*. Published in Tahlequah in the Cherokee Nation, the *Phoenix's* successor ran until the dissolution of the tribal nation in 1906. As of 2008, the newspaper serving the Cherokee Nation was known as the *Cherokee Phoenix*.

See also *Boudinot, Elias*; *Cherokee Advocate*; *Cherokee Nation v. Georgia* (1831); *Indian Removal Act of 1830*; *Removal*; *Sequoyah*; *Worcester v. Georgia* (1832).

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BIBLIOGRAPHY

- Perdue, Theda. *Cherokee Editor: The Writings of Elias Boudinot*. Athens: University of Georgia Press, 1996.
 Riley, Sam G. "The Cherokee Phoenix: The Short, Unhappy Life of the First American Indian Newspaper." *Journalism Quarterly*, vol. 53, no. 4 (1976): 666–671.

Cherokee War of 1776

The indecisive aftermath of the Anglo-Cherokee War (1759–1761) led to escalating tension between colonial and British authorities and Indian tribes. Recurrent conflict along the borders between Cherokee villages and white settlements, together with Cherokee lobbying, hastened the establishment of the Proclamation Line of 1763, which was designed to stop the flow of unauthorized settlement on tribal lands. However, the British proved unable to enforce

the line and to stop either illegal settlement by individuals or large-scale land speculation. Tribal concerns mounted, and Cherokee leaders began to be pulled into resistance movements such as Pontiac's Rebellion (1763–1766), which challenged both European political and cultural authority. Cherokee diplomats mounted a peace offensive, utilizing the tools of land gifts, land cessions, and intermarriage with the colonists. However, a minority of rising young Cherokee leaders were persuaded that armed resistance was the only path to survival.

The swift deterioration of relations between Britain and the southern colonies was solidified both by an abortive British naval landing in Charlestown and by Cherokee raids led by Dragging Canoe against the settlements in the Tennessee River headwaters and western North Carolina. News of these attacks, coupled with fears over a long-rumored British plan to ignite a tribal and slave rebellion, created panic among the colonial settlers in the region. In late summer and fall 1776, just after the Declaration of Independence was signed, large militia bands from North and South Carolina, Georgia, and Virginia overwhelmed Cherokee towns located along the great river valleys of the southern Appalachians. Six thousand men, including Catawba Indians and other traditional opponents of the Cherokees, marched in a show of overwhelming force against the Cherokees.

The rhetorical offensive by Continental Congress leaders was premeditated and genocidal in tone. In one letter Thomas Jefferson stated he wished the colonists would drive the Cherokees across the Mississippi River. William Henry Drayton, a South Carolina planter and politician, advised South Carolina troops to destroy every Indian cornfield and town and utterly destroy the Cherokee Nation. As was customary, the Cherokees fell back in a defensive strategy that sacrificed villages but saved lives in battle; however, many died from starvation and the stress of dislocation. The burning of Kituhwa, the Cherokee mother town, was a severe psychological blow. Similarly damaging was the loss of so many elder leaders needed to fill the traditional spiritual and political roles for recovery. The overwhelming show of force against the Cherokee proved a successful lesson and deterrent to other powerful southern tribes tempted to join the British side in the American Revolutionary War (1775–1783).

The coordinated campaigns, remembered simply as the “Indian War” or “Great Cherokee War,” were interpreted later by American veterans of the conflict as a necessary psy-

chological prelude to revolution in the south. For Cherokees, the war resulted in an altered world in which they were surrounded by new adversaries. Before the revolutionary era, colonial leaders had seen the Cherokees as powerful gatekeepers to the trans-Appalachian west. The Cherokee War of 1776 overturned the old balance of power that the Cherokees had used to hold colonial ambitions in check.

See also *American Revolutionary War (1775–1783)*; *Dragging Canoe*; *Great Britain, Indian Policy of*; *Indian Policy of the Continental Congress*; *Pontiac's Rebellion*; *Proclamation of 1763*.

Thomas Hatley

BIBLIOGRAPHY

- Conley, Robert J. *The Cherokee Nation: A History*. Albuquerque: University of New Mexico Press, 2005.
- Hatley, Tom. *The Dividing Paths: Cherokees and South Carolinians through the Era of Revolution*. New York: Oxford University Press, 1993.
- O'Donnell, James H., III. *Southern Indians in the American Revolution*. Knoxville: University of Tennessee Press, 1973.

Chitto Harjo

Chitto Harjo (1846–1911) was the *heneha* (speaker) of the Muscogee (Creek) traditionalists who protested against the destruction of traditional Muscogee culture, prompted by the land seizures of the General Allotment (Dawes) Act of 1887. He also led opposition to Oklahoma statehood in 1907.

Chitto, a clan designation, means “snake,” and “Harjo,” not a surname, means “recklessly brave.” Chitto Harjo's resistance against allotment resulted in his arrest by the federal government in 1898, although he immediately resumed his anti-Dawes activities upon his release. He traveled with three fellow counselors and a translator to Washington, D.C., to research U.S.–Muscogee law and discovered that the Dawes Act was in violation of the 1832 Creek removal treaty.

Chitto Harjo and his followers turned settlers off surplus land and intimidated Muscogees cooperating with allotment. When reports of this prompted an attack by settlers, federal marshals arrived to arrest Dawes Act resisters, not the settlers. This became known as the Crazy Snake War. Chitto, released under the requirement that he accept the allotment act, continued his efforts against it and was arrested in 1902 and imprisoned for nine months.

A 1905 effort by the Five Tribes of Oklahoma (Muscogees, Cherokees, Seminoles, Chickasaws, and Choctaws) to establish an “Indian” state called Sequoyah met with approval from both Natives and settlers. Chitto Harjo traveled to Washington, D.C., again to speak out against

Oklahoma statehood, and he testified before Senate Select Committee hearings on the matter, protesting the seizure of Indian Territory as a new settler state. Despite his efforts, Congress established Oklahoma as a state in 1907.

Between 1907 and 1909, Chitto Harjo continued to resist Oklahoma statehood. In 1909 he went to Washington for the third time. Alerted by his visit to the level of continuing Muscogee anger, federal officials awaited an excuse to move decisively to silence it. Taking advantage of a case of stolen meat, federal police rushed into Muscogee land called Hickory Grounds and a settler-led riot ensued.

Although not present at the riot, Chitto Harjo was declared an armed and dangerous outlaw. His family home was surrounded by territorial marshals and he was shot during the attack. His son snuck him out of the house during a lull in the firefight. Oklahoma posses formed to hunt him down and Governor Charles N. Haskell sent in troops, which encouraged looting, assaults, and general mayhem by armed mobs of settlers. The press referred to the situation as the new Crazy Snake War, although it became more commonly called the Smoked Meat Rebellion. Chitto Harjo remained free, but in hiding, until his death on April 11, 1911.

See also *Allotment in Severalty; Crazy Snake Uprising; Curtis Act; General Allotment Act (Daves Act) of 1887; Oklahoma; Sequoyah State of.*

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BIBLIOGRAPHY

- Bolster, Mel H. *Crazy Snake and the Smoked Meat Rebellion*. Boston: Brandon Press, 1976.
- Debo, Angie. *And Still the Waters Run: The Betrayal of the Five Civilized Tribes*, 4th ed. Princeton, N.J.: Princeton University Press, 1991.
- Harring, Sidney L. *Crow Dog's Case: American Indian Sovereignty, Tribal Law, and United States Law in the Nineteenth Century*. Cambridge, Mass.: Cambridge University Press, 1994.
- Littlefield, Daniel F., and Lonnie E. Underhill. "The 'Crazy Snake Uprising' of 1909: A Red, Black, or White Affair?" *Arizona and the West*, vol. 20, no. 4 (1978): 307–24.
- Mann, Barbara Alice. "'A Man of Misery': Chitto Harjo and the Senate Select Committee on Oklahoma Statehood." In *Native American Speakers of the Eastern Woodlands: Selected Speeches and Critical Analyses*, edited by Barbara Alice Mann, 197–228. Westport, Conn.: Greenwood Press, 2001.
- McIntosh, Kenneth Waldo. "Chitto Harjo, the Crazy Snakes and the Birth of Indian Political Activism in the Twentieth Century." Ph.D. diss., Texas Christian University, 1993.

Citizenship: United States and State

Like most issues related to Native Americans and their lands, the citizenship status of Native individuals can be complex and has been the subject of much controversy throughout history. The fundamental citizenship status of most American Indians is that they are considered members of Native nations. Citizenship, or membership, in an Indian tribe is conferred as a matter of tribal law, federal law, or both. Because of intermarriage between tribes, as well as between Indians and non-Indians, not all persons who are culturally Indian or who are descendants of tribal members are eligible for tribal citizenship. When a Native person is a tribal citizen, however, federal and state citizenship are in addition to the tribal affiliation.

U.S. Citizenship

In the early twenty-first century, all Indians born in the United States are U.S. citizens. Native Americans have viewed—and some still view—efforts to make them citizens of the United States with some suspicion. Historically, citizenship for Indian people was viewed as a way to separate Native people from their lands, to make them subject to state laws, or to destroy tribal sovereignty.

The history of Native American citizenship in the United States began with the founding of the country. The U.S. Constitution distinguished citizens who had Native heritage from "Indians not taxed," who were citizens only of their Native nations. Prior to the Civil War (1861–1865), citizenship was sometimes conferred on particular tribes by treaty or special statute, as was the case with the Wyandots in 1855. Without such naturalization, however, most Indians were considered to be members of their tribes and not citizens of the United States or the individual states.

The Fourteenth Amendment

The Fourteenth Amendment, ratified in 1868, provides that: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside." The amendment also reiterated the provision of the original Constitution that "Indians not taxed" were excluded from the population count used to apportion membership in the House of Representatives.

In the 1880s a man named John Elk was denied the right to register to vote in Omaha, Nebraska. He sued in federal

court, claiming that he was a citizen entitled to vote because he had been born in the United States, had severed his tribal relations, and was under the jurisdiction of the United States. The U.S. Supreme Court disagreed. In an 1884 decision, *Elk v. Wilkins*, the Court held that because Mr. Elk was born a tribal citizen, he was not “born . . . subject to the jurisdiction” of the United States under the Fourteenth Amendment. He could therefore only be considered a citizen, the Court ruled, if he had been naturalized by Congress, and he had not. His voluntary abandonment of his tribal relations did not make him a citizen of the United States.

The General Allotment Act

Congress’s first attempt at widespread naturalization of Indians came with the passage of the 1887 General Allotment Act, also known as the Dawes Act. The act broke up many reservations into pieces of land called allotments, which were assigned to individual Indians. Each allotment was to be held in trust by the United States for its Native allottee for twenty-five years. After that, the individual would be issued a deed (patent in fee) to the land, which then became subject to state taxation and could be sold. The allotment of tribal land was part of a general federal policy created to assimilate Indians into mainstream American society. Federal policy makers believed that individual land ownership, citizenship, and conversion to Christianity were the tools by which Indians would become assimilated, and Indian tribes would eventually cease to exist.

Originally, the General Allotment Act said that every Indian receiving an allotment, as well as any Indian who voluntarily resided apart from the tribe and “adopted the habits of civilized life,” was declared a citizen of the United States. Once allottees received the patent in fee to their land, they were also made subject to the laws of the state in which they resided. In the 1905 case of *In re Heff*, the Supreme Court ruled that a Kickapoo allottee was not subject to a federal law prohibiting the sale of liquor in Indian Country because he was a U.S. citizen and subject to state law; therefore, the federal laws governing Indians did not apply to him.

In response to the decision, Congress amended the General Allotment Act in 1906. The amendment, called the Burke Act, provided that allottees would become U.S. citizens only when they received the fee patent to their land, rather than when the land was first allotted. The Burke Act also, however, stated that fee patents could be issued to allottees before the expiration of the twenty-five-year trust peri-

od if the federal government determined that the allottee was “competent and capable of managing his or her affairs.” Based on the Burke Act, the Supreme Court overruled *In re Heff* in 1916. In the case of *United States v. Nice*, that same year, the Court held that Congress retained authority over allottees, at least during the trust period. The Court stated: “Citizenship is not incompatible with tribal existence or continued guardianship, and so may be conferred without completely emancipating the Indians, or placing them beyond the reach of congressional regulations adopted for their protection.” The Court held, in other words, that allottees retained their tribal citizenship.

The General Allotment Act thus created two paths to U.S. citizenship and imposed them on Native individuals without their participation or consent. Indians who voluntarily abandoned tribal citizenship could become U.S. citizens. And allottees would become citizens when they received the deed to their allotments, whether at the end of the trust period or upon an earlier determination by the federal government that they were “competent.” In reality, however, Indians who were naturalized through the General Allotment Act were generally still under federal guardianship and continued to live under tribal law.

Subsequent Naturalization Statutes

Following the General Allotment Act, Congress continued to enact occasional naturalization statutes for specified classes of Indians. For example, in 1888 Congress provided that an Indian woman who married a citizen of the United States would, by the marriage, become a citizen herself. In 1919 Congress passed a law making Indians who fought in World War I (1914–1918) eligible to apply for U.S. citizenship, although few did so. Both statutes expressly preserved the rights of naturalized Indian women or service members to any tribal property or interests in tribal property.

Congress also focused on the tribes in the Indian Territory. Although those tribes were exempted from the General Allotment Act, in the 1890s Congress turned its attention to allotting the tribal lands and suppressing the tribal governments of the territory. The Indian Territory Naturalization Act of 1890 allowed a member of any Native nation living in the Indian Territory (present-day eastern Oklahoma) to choose U.S. citizenship by applying to a federal court. The statute did not affect a person’s tribal citizenship, but allowed the individual to acquire dual citizenship. Then, in 1901 Congress simply declared all Indians living in Indian Territory to be citizens of the United States.

As a result of the General Allotment Act and the many specialized statutes that followed, by the early twentieth century there was no categorical or definitive way of knowing whether a Native American was a U.S. citizen. This was problematic to the mainstream American public, which generally considered the status of U.S. citizen to be highly desirable. It was also problematic to those Indians, such as John Elk, who wished to participate in the state or federal political process by voting or running for elected office.

Indian Citizenship Act of 1924

In 1924 Congress naturalized all Indians by enacting the Indian Citizenship Act. This law declared:

That all non-citizen Indians born within the territorial limits of the United States be, and they are hereby, declared to be citizens of the United States: *Provided*, That the granting of such Citizenship shall not in any manner impair or otherwise affect the right of any Indian to tribal or other property.

This law conferred United States citizenship on all Indians, while also retaining Native people's land-based tribal relationships. The statute thus provided, in effect, dual citizenship.

During the nineteenth and early twentieth centuries, Indian citizenship was generally closely tied to cultural and political assimilation. Federal policy makers viewed citizenship as an important tool in the drive to break up the tribal land base, sever tribal relations, and end the separate status of Indian tribes. Tribal resistance to these efforts was often fierce. Unlike the General Allotment Act, however, the Indian Citizenship Act of 1924 did not couple citizenship to loss of land, loss of tribal relations, or extension of state jurisdiction. Instead, it implicitly retained the governmental status of tribes and the full participation of Indian citizens in their Native nations.

Nonetheless, some Native Americans did not want U.S. citizenship. For instance, after the passage of the act, the Grand Council of the Iroquois Confederacy sent letters to the president and Congress "respectfully declining United States citizenship, rejecting dual citizenship, and stating that the act was written and passed without their consent" (Chief Oren Lyons and John Mohawk, eds., *Exiled in the Land of the Free: Democracy, Indian Nations, and the U.S. Constitution*, 1992). Subsequently, at the start of World War II (1939–1945), the Iroquois (Haudenosaunee) brought a case in U.S. federal court, arguing that Iroquois citizens were not subject to the military draft. The Iroquois said that they had

never accepted the Indian Citizenship Act, were not U.S. citizens, and were in fact citizens of their own sovereign nation. Federal courts rejected this argument, however, and some Iroquois were arrested and charged with draft evasion.

In the years since 1924, many Native Americans have viewed themselves as dual citizens or simply as U.S. citizens, but some continue to consider themselves members only of their own sovereign nations. Some actively denounce U.S. citizenship, while others simply see no reason to participate in the affairs of a foreign country. For example, Indians' voting rates were extremely low until the last two decades, and some Native nations issue their own passports for international travel.

Federal Termination Policy

The federal termination policy of the 1950s and 1960s brought a theory from the assimilation era of the late 1800s back to the forefront. This was the idea that treaty rights and tribal membership made Indians "super citizens." Accordingly, proponents of termination argued that these "special rights" needed to be removed so that Native individuals were equal to other U.S. citizens.

The beginning of the termination era was signaled by House Concurrent Resolution 108, adopted in 1953. The resolution provided that "it is the policy of Congress, as rapidly as possible, to make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States." Under this legislation, citizenship meant removal of Native rights and the repeal of laws that set Indians apart from the mainstream United States, such as nation status, treaty rights, reservations, and laws forbidding Native people from owning firearms and drinking alcohol. The existence of the Bureau of Indian Affairs was also brought into question.

Once a tribe was terminated, its citizens were fully subject to state jurisdiction. As a companion to termination, Congress also enacted Public Law 280 in 1953, which granted some states—and authorized all others to assume—civil and criminal jurisdiction over all Indians. In addition, the federal government pursued a relocation policy that encouraged Indians to move off reservations and to urban areas. Once off the reservations, Native individuals usually left tribal government and reservation-based services and became subject to state laws.

Even though the termination era officially ended in 1970, and many of the terminated tribes have since been

“restored” to federally recognized status, there are still tensions around issues related to Native American citizenship. Those who oppose Native nation sovereignty still point out that tribal sovereignty and citizenship mean that Indians receive the benefits associated with state citizenship but do not have to pay some state taxes or follow the same rules as non-Indian citizens. Native people respond that they are acting within their treaty rights and national sovereignty, which predates the time when anyone was a citizen of the United States.

State Citizenship

Historically, Indians who were not U.S. citizens were also not citizens of any state. Thus, in *Elk v. Wilkins*, John Elk was denied the right to register to vote in a city council election because he was not a citizen under the Fourteenth Amendment. Indian participation in state elections became important as more Indians moved off the reservations, and because citizenship and suffrage have generally been deemed closely related. A number of states blocked Indians from voting at various times, including Arizona, Utah, New Mexico, Idaho, Colorado, North Carolina, and Washington.

When Indians were naturalized as U.S. citizens by the Indian Citizenship Act of 1924, they also became citizens of the state in which they resided. The Fourteenth Amendment to the U.S. Constitution provides that all persons who are naturalized “are citizens of the United States and of the State wherein they reside.” As a result, Indians in the early twenty-first century are both federal and state citizens.

Nothing in state citizenship, however, subjects Indian individuals to state laws. Instead, Native Americans living on reservations are generally subject only to federal and tribal law. State law applies, in general, only if Congress has specifically authorized it.

See also *Allotment and Assimilation; Blood Quantum; Burke Act of 1906; Elk v. Wilkins (1884); General Allotment Act (Dawes Act) of 1887; House Concurrent Resolution 108; Indian, Definition of; Indian Citizenship Act of 1924; Tribal Citizenship.*

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BIBLIOGRAPHY

- Deloria, Vine, Jr., ed. *Of Utmost Good Faith*. San Francisco, Calif.: Straight Arrow Books, 1971.
- Deloria, Vine, Jr., and Clifford M. Lytle. *American Indians, American Justice*. Austin: University of Texas Press, 1983.
- Lyons, Chief Oren, and John Mohawk, eds. *Exiled in the Land of the Free: Democracy, Indian Nations, and the U.S. Constitution*. Santa Fe, N.M.: Clear Light Publishers, 1992.

O'Brien, Sharon. *American Indian Tribal Governments*. Norman: University of Oklahoma Press, 1989.

Pevar, Stephen L. *The Rights of Indians and Tribes: The Basic ACLU Guide to Indian and Tribal Rights*. 2nd ed. Carbondale: Southern Illinois University Press, 1992.

Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.

Wilkins, David E. *American Indian Politics and the American Political System*. Lanham, Md.: Rowman and Littlefield Publishers, 2002.

———. *American Indian Sovereignty and the U.S. Supreme Court: The Masking of Justice*. Austin: University of Texas Press, 1997.

Civil War (1861–1865)

The American Civil War began in 1861 and ended a bloody four years later in 1865. The extent to which each Indian nation was affected by the conflict varied greatly on the basis of geographic location. Some found themselves at the front lines of the war, others engaged in struggles peripheral to the war, and still others were mostly untouched by the combat. Initially, both the U.S. government and the Confederate States government intended the war to be between white men and saw no role for Native Americans. However, as the conflict progressed, both sides sought the assistance of Indians as allies and soldiers.

United States

The West

The federal government entered the war with an established relationship with American Indians. On the plains and in the far west, American expansion had already begun to clash with Native American lives. The plan to separate Indians from their extensive homelands and contain them on reservations took shape with the Treaty of Ft. Laramie in 1851. The major western Indian wars would come after the Civil War, but the pattern of conflict was already established. When the U.S. Army entered the Civil War in 1861, military planners removed U.S. troops from western forts to bolster forces in the east. Tribes across the west watched Union soldiers march out of frontier forts with all their gear. Without a clear understanding of the national conflict, most Indians regarded the withdrawal as a victory rather than a lull in the struggle.

While some tribes gained a respite from the army presence, others faced ruthless efforts to strip them of their lands, which were aided by the government's nearly total lack of attention to Indian policy in the war years. In Colorado, untrained, undisciplined miners under the command of John Chivington massacred over 150 Southern Cheyennes and

This Indian delegation of Sioux leaders was one of many sent to protest or negotiate in Washington, D.C., during the Civil War. Both the Union and Confederacy saw the necessity of having Indian allies.



Arapahoes, mostly women, children and elders, in the 1864 Sand Creek massacre. Chivington and territorial governor John Evans pursued their own agenda, with little oversight from either the Office of Indian Affairs or U.S. Army leadership. Farther south in New Mexico, another ambitious military commander, General James H. Carleton, sought to solve his regional problems by confining the Indians to one area. To that end, he waged a campaign of total warfare against the Apaches and Navajos, driving 8,500 men, women, and children to a barren reservation known as Bosque Redondo. The Apaches and Navajos suffered there throughout the war until the government finally turned its attention to their plight and returned them to portions of their homelands.

Similarly, land-hungry settlers in Minnesota territory used the war as an effective cloak for their move against the Dakotas (Eastern Sioux) people. The neglect of the Indian office and the abuse of the traders under the reservation system sparked a desperate response from the Dakotas in 1862—a response that was crushed by the U.S. Army. Survivors were banished to the deplorable Crow Creek agency and many Dakota men were sentenced to die. When thirty-eight Dakotas died by hanging on December 29, 1862, in Mankato, Minnesota, it was at that time the largest mass execution in U.S. history. Other tribes suffered terribly as well during the Civil War, for reasons barely connected to the conflict. And after the war the reunited nation continued to push westward, consolidating and then expanding territorial gains at the expense of Native nations.

Kansas and the Indian Territory

In Kansas and the Indian Territory, Indians initially seemed as irrelevant to the war effort as they did in the west. The

Office of Indian Affairs did little to assure the Cherokees, Creeks, and others residing on the border of Confederate States that the U.S. would honor treaty obligations to protect them. Most of the agents to the southern Indian tribes were southern men themselves. As sectionalism heated up and the secession crisis loomed, agents quickly made their choice to side with the new Confederacy. Thus, the United States had no presence in the region at a time of great turmoil. The United States then made policy choices that negatively impacted their relations with the tribes in the area. Supposedly worried about the security of transportation, the Office of Indian Affairs suspended annuity payments to tribes in Indian Territory. The Indian governments relied on these payments, which were guaranteed by treaties, to fund their governments and schools, and the decision to cease them left Indian leaders feeling betrayed and suspicious. In addition, as the U.S. Army withdrew from federal installations throughout the South, it also pulled troops out of Indian Territory. Indian leaders watched helplessly as Union soldiers marched out of Forts Arbuckle, Cobb, and Washita in 1861. Not surprisingly, the southeastern Indian nations were left wondering if the U.S. government had any commitment to them at all. They continued to send letters to Washington asking for an explanation of the situation, but received no replies as newly appointed agents dared not venture out of Union-controlled Kansas to meet with their charges. The Confederacy quickly capitalized on this lack of U.S. presence in Indian Territory.

The United States slowly rebuilt its relations with the tribes in Indian Territory and realized the importance of having Indian allies in that region. Indian Territory, it realized, could be an important buffer between Kansas and

Confederate Texas and Arkansas. Also, both the Office of Indian Affairs and the U.S. Army soon had to deal with the flow of refugees pouring into Kansas in response to Confederate aggression in 1861–1862. The transportation of food and basic necessities became huge issues for those trying to aid refugees. The Creek, Cherokee, and Seminole people seeking Union protection outside of their national boundaries desperately wanted to return home and were willing to fight to do so. Eventually, in 1862 the commissioner of Indian affairs, William P. Dole, urged the army to enlist American Indians, which resulted in the formation of the Indian Home Guards. Their first assignment was the long-awaited Union invasion of the territory. Beginning in 1862, the Union increased its presence and tenuous control over the region, which allowed many civilians to return to homes they discovered had been ravaged by war. Many tribal members began to rethink their official alliance with the Confederacy now that the United States was reasserting control. About half of the Creek, Cherokee, and Seminole people renewed their old allegiance to the federal government. Cherokee chief John Ross traveled to Washington to meet with President Lincoln and reestablish a relationship with the Office of Indian Affairs and get help for his people.

The residents of Indian Territory remained a divided people throughout the war. Adherents of each side were forced to flee their homes, as “enemies” from their own tribe gained control of the area. The end of the war found thousands of displaced people living as refugees, many with no place left to call home. The United States government wasted little time in taking land from a weakened people. All five Indian nations, including those loyal to the U.S., were forced to cede land, and mass emigration from the east soon followed. The peace treaties also required the Indians to grant citizenship to their freed slaves.

The East

The number of American Indians residing in the eastern states was far less than in the rest of the country, approximately only thirty thousand, and those mostly in Michigan, New York, and Wisconsin. Their major concern was saving land and autonomy in the face of constant white expansion. Major indigenous powers, such as the Iroquois and Cherokee, had suffered extensive territorial loss during the early nineteenth century. The relatively small numbers of Eastern Indians meant that the United States could safely ignore them during the war. Because the war was initially

regarded as a concern of whites, Indians, like African Americans, could not join the U.S. Army. Secretary of State William H. Seward, at times regarded as a friend to Indians, spoke bluntly about the “white man’s fight” and told Indians not to get involved. However, the arguments of men such as Commissioner Dole and the realities of a long war broke down the barriers so that Indians were accepted into service in 1862. They fought alongside white soldiers in many cases, but were often relegated to the companies of the U.S. Colored Infantry. Some units became known for their concentration of Native American members, such as Company D of the 132nd Regiment New York Volunteer Infantry, which was known as the “Tuscarora Company.” Ottawa and Ojibwe Indians enlisted in the 1st Michigan Sharpshooters in the summer of 1863. They marched with the Army of the Potomac in the intense battles of 1864—Wilderness, Spotsylvania Courthouse, Petersburg—and paid a high price in casualties. Despite obvious displays of bravery and skill, the Union always treated Indian soldiers as subordinates by placing them under the command of white officers and few ever rose to positions of leadership.

One Indian soldier did gain status in the U.S. Army. Ely S. Parker, a Seneca Indian from New York state, was the great-great-grandson of Seneca prophet Handsome Lake and became one of the fifty sachems of the Iroquois League. He trained as an engineer, eventually working in Illinois where he met Ulysses S. Grant. At the outbreak of the war, Parker tried to enlist but was rebuffed several times, including once by Secretary of State Seward. Finally, in 1863 General Grant chose Parker as one of his adjutants. Grant came to like and trust Parker and promoted him to military secretary in 1864. In this position, Parker accompanied Grant everywhere, carrying his important papers and writing all of the lieutenant general’s correspondence. Parker was one of the officers present at the final meeting of Grant and General Robert E. Lee at Appomattox Courthouse in April 1865. Because Lee’s assistant could not complete the task, Ely Parker wrote out the official surrender terms signed by Grant. Parker went on to become the first Indian to serve as commissioner of Indian affairs.

Confederate States of America

Because the Civil War began only a decade and a half after removal, the Confederacy had few Native residents within its territory. Southern states, led by Georgia, had forced the Cherokee, Creek, Choctaw, Chickasaw, and Seminole nations out of their homelands east of the Mississippi River.

Small remnants of these people remained, but held little interest for a new nation in the crisis of war. Four hundred Cherokees did enlist in the Confederate army in William Holland Thomas's legion, performing mostly guard and reconnaissance duties in the mountains of North Carolina.

The bulk of the relocated southern nations resided just on the border of the Confederacy, and the Confederate government quickly realized the importance of securing their loyalty. Jefferson Davis ordered the creation of an Office of Indian Affairs in the spring of 1861, and the Confederacy chose to move away from established Indian policy by offering Native nations more autonomy and representation in the national government. President Davis sent several emissaries to Indian Territory to meet with the leaders of the nations. Men from Arkansas and Texas who had ties to the Indian nations through commerce and marriage also urged the Indians to ally with the Confederacy. Although the majority of Indians did not own slaves, many of the wealthy leaders did and participated in a cash crop economy. This gave them a clear tie to the newly established Confederacy, which had pledged to protect the "peculiar institution." The obvious interest of the Confederacy and the indifference of the Union served to overcome the legacy of removal so that all the five tribes, as well as others, signed treaties of alliance with the Confederate States of America. By the fall of 1861 the Confederate States of America had successfully completed its first major diplomatic mission.

Enlistment of Indian troops began immediately, and here the Confederate States of America differed greatly from the Union. Confederate Indian soldiers served in distinct units under Indian officers, rather than integrated units led by white officers. Men from all five nations quickly volunteered for Confederate service and filled several regiments. Many Cherokee, Creek, and Seminole soldiers stayed loyal to the Confederacy even after their brethren switched to the Union side, and few Choctaws and Chickasaws wavered in their loyalty to the South, despite the efforts of Union officers to entice them. These Indian units fought mainly in their own nations, so Indian Territory became one large battleground with roving armies destroying everything in their path. The situation devolved into a series of brutal civil wars with old animosities and rivalries being played out by armed men. The civilians bore the brunt of the conflict as homes, schools, livestock, and fences fell to the ravages of war. Indian Territory lost much of its wealth during the conflict.

The largest battle in the territory was fought in 1863 at Honey Springs. Most of the rest of the engagements were

skirmishes and raids, often to get provisions, which were always in short supply. Indian soldiers typically suffered from meager, poor-quality military supplies. When Confederate forces captured the federal steamboat *J. R. Williams*, the military advantage was lost when soldiers rushed to take the booty to their impoverished families.

Despite its ultimate outcome, the steamboat raid did serve to showcase the skill of Cherokee general Stand Watie. Watie was the most famous Confederate Indian soldier and a respected military leader. He began as a political leader of the pro-removal faction of the Cherokee Nation and served as the chief of the southern Cherokees. Originally mustered under General Benjamin McCulloch, Watie outlasted several Confederate commanders and gained the rank of brigadier general in 1864. His surrender of Confederate Cherokee forces in June 1865 ended the southern Indians' involvement in the Civil War.

The nations of Indian Territory paid a high price for their alliance with the Confederacy. They were required to surrender territory and abolish slavery in order to reestablish relations with the United States. The end of the war also brought the beginning of the loss of autonomy for the Five Nations. Speculators, politicians, railroad executives, and veterans coveted the lands of the Five Nations and worked hard to open the region to non-Indian commerce and settlement.

Except perhaps in rare individual cases, Indians did not benefit from the Civil War. In general they lost lives, property, and autonomy because of the war and then had to face a united expansive nation in the postwar period.

See also *Bosque Redondo*; *Confederate States of America*; *Dole, William P.*; *Parker, Ely S.*; *Removal*; *Ross, John*; *Watie, Stand*.

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BIBLIOGRAPHY

- Abel, Annie Heloise. *The American Indian in the Civil War, 1862–1865*. Repr. 1919 as *The American Indian as Participant in the Civil War*. Repr. Lincoln: University of Nebraska Press, 1992.
- Armstrong, William H. *Warrior in Two Camps: Ely S. Parker, Union General and Seneca Chief*. Syracuse: Syracuse University Press, 1978.
- Baird, W. David, ed. *A Creek Warrior for the Confederacy: The Autobiography of Chief G. W. Grayson*. Norman: University of Oklahoma Press, 1988.
- Britton, Wiley. *Memoirs of the Rebellion on the Border, 1863. 1882*. Repr., Lincoln: University of Nebraska Press, 1993.
- Confer, Clarissa W. *The Cherokee in the Civil War*. Norman: University of Oklahoma Press, 2007.
- Cottrell, Steve. *Civil War in the Indian Territory*. Gretna, La.: Pelican, 1995.
- Dale, Gaston Litton, and Edward Everett. *Cherokee Cavaliers*. Norman: University of Oklahoma Press, 1939.

- Fisher, LeRoy, ed. *The Civil War Era in Indian Territory*. Los Angeles: Lorrin L. Morrison Publisher, 1974.
- Franks, Kenny. *Stand Watie and the Agony of the Cherokee Nation*. Memphis: Memphis State University Press, 1979.
- Hauptman, Laurence. *Between Two Fires: American Indians in the Civil War*. New York: The Free Press, 1995.
- . *The Iroquois in the Civil War: From Battlefield to Reservation*. Syracuse: Syracuse University Press, 1993.
- Hood, Fred. "Twilight of the Confederacy in the Indian Territory." *The Chronicles of Oklahoma*. vol. 41, no. 4 (1965): 425–41.
- Nichols, David A. *Lincoln and the Indians, Civil War Policy and Politics*. Columbia: University of Missouri Press, 1978.

Civilization Program

During the first four decades of the American national republic (1789–1830), the U.S. government pursued a consistent, if not always well-funded, policy toward Native Americans. Federal officials, Indian agents, congressmen, and presidents encouraged the Indians residing within the United States to become literate, Christian yeoman farmers—to become “civilized,” in the parlance of the era. Their eventual goal was to peacefully incorporate Native American peoples into the citizenry of the United States.

The Means of Acculturation: Agents and Gifts

Policy makers employed three methods of promoting Indian civilization. First, agents and treaty commissioners publicly encouraged Indian audiences to adopt plow agriculture, stock-raising, and domestic manufactures (particularly spinning and weaving). They argued that these changes would better allow Indians to feed themselves, thus reversing two centuries of population decline, and would also help Indians support themselves financially as profits from the North American fur trade declined.

Some agents accompanied their urgings with agricultural demonstrations and incentives. For example, Benjamin Hawkins, who served as principal agent to the southern Indians from 1796 to 1816, established a European-style farm at his agency to provide Creek horticulturalists with a model of “civilized” farming. He also advised the federally administered Indian trading-house at Fort Wilkinson to pay Creek women a premium for homespun cloth and for agricultural produce such as eggs and butter.

Second, the U.S. government provided Indians who signed treaties with “civilizing” gifts that would give them a material head start in their adoption of European-American lifeways. These gifts commonly included plows, spinning wheels, looms, and livestock. A committee of the

Continental Congress proposed such gifts in 1787, and in a July 1789 report to President George Washington, Secretary of War Henry Knox re-introduced their proposal. In the 1790s and early 1800s, federal treaties with the Creeks, Cherokees, Iroquois, and Great Lakes Indian nations promised annual deliveries of agricultural hardware and livestock to the signatories. The 1796 Indian Trade and Intercourse Act appropriated \$15,000 per year for civilizing gifts; subsequent Congresses renewed the gift appropriation until 1834.

The Means of Acculturation: Indian Schools

The third method the government used to promote Indian civilization was the recruitment of Christian missionaries to open schools for Indian children to teach them reading, writing, animal husbandry, blacksmithing, and other domestic arts. Early administrations provided encouragement but little direct support to such missions. In the 1790s the War Department placed about twenty Creek and Iroquois children with Quaker families who promised to educate them. In 1803 the Jefferson administration gave several hundred dollars to Presbyterian missionary Gideon Blackburn to help him build a school for the Cherokees and promised the Kaskaskias funds for a church and for the salary of a priest who would also work as a schoolteacher. Thomas Jefferson's successor as president, James Madison, approved small grants to Moravian and Congregational missionaries planning schools for the Cherokees and Choctaws.

It was not until 1819 that this third element of civilization policy achieved routine and regular funding. The Civilization Act, brainchild of Superintendent of Indian Trade Thomas McKenney, provided a \$10,000 annual appropriation for schools for Native American children. During the following decade, civilization-policy funds were parceled out to over a dozen Protestant mission societies. The most notable of these societies was the Boston-based American Board of Commissioners for Foreign Missions, an association of Congregationalists and Presbyterians that maintained nearly twenty schools and missions in Native American communities. (The largest single recipient of funds, however, was Senator Richard M. Johnson, who used them to establish a private academy near Bear Spring, Kentucky. Johnson's Choctaw Academy boarded and educated Choctaw, Chickasaw, Creek, Miami, and Potawatomi students.) By 1826, thanks in large part to federal subsidies, the number of Indian schools in the United States had grown from six to thirty-six, and by 1830 nearly two thousand Indian pupils were enrolled therein.

Benevolence and Manipulation

The motives of the men who created and maintained the civilization policy were a complex mixture of publicly expressed benevolence and more private pragmatism. Federal officials such as Benjamin Hawkins and Henry Knox earnestly believed that adopting commercial agriculture and other European lifeways was the only way the Woodland Indians could preserve themselves from extinction. They believed that allowing this extinction to occur would stain the United States' honor and blacken its international reputation, linking it with the "Black Legend" of 16th-century Spanish cruelty in the minds of contemporary observers. Many educated patricians such as Timothy Pickering (a treaty commissioner and secretary of war) and Thomas Jefferson believed that "civilizing" Indians would affirm their own Enlightenment faith in the natural equality and perfectibility of human beings. The missionaries with whom these policy makers formed an alliance believed that teaching Native Americans to read and plow would prepare them for conversion to Christianity.

Federal officials also observed that their government could gain practical advantages from the Indian civilization program. Henry Knox argued that giving gifts of livestock and agricultural hardware to Indian chiefs would cause the Indians to feel more bound to the United States and its interests. Placing the children of influential Indian leaders with Quaker families or in boarding schools could have a similar effect, as those children would be hostages to their parents' good behavior. During the American Revolutionary War (1775–1783), the Continental Congress had paid to educate the sons of influential Caughnawaga and Delaware leaders in order to cement their loyalty to the United States, and the first Indian children whom the Washington administration promised to educate were the nephews of the biracial Creek Indian leader Alexander McGillivray, whom Henry Knox wanted to turn into an American client.

Jefferson's "Coincidence of Interests"

In the early nineteenth century, Thomas Jefferson asserted that the civilization policy would promote his administration's policy of territorial expansion, because Indians who gave up hunting for farming and home manufacturing could subsist on less land and sell their surplus lands to the U.S. government. Additionally, as Native Americans adopted intensive horticulture and began raising stock, their need for capital would induce them to sell those lands. "A coinci-

dence of interests will be produced," Jefferson wrote to Benjamin Hawkins in February 1803, "between those who have lands to spare, and want other necessities, and those who have such necessities to spare and want lands" (Paul Ford, ed., *Works of Thomas Jefferson*, vol. 9, 1905). Policy makers ultimately hoped that acculturated Indians would break up their collectively held tribal lands into small individual allotments and agree to live under American laws, potentially then intermarrying with whites and disappearing into the general population. The civilization policy was thus not merely an expression of American benevolence. Its creators sought to use it to turn Indians into allies, then into clients, and finally into citizens, so that the government could assimilate them and sell their lands.

Native American Responses to the Civilization Policy

Despite the ethnocentric goals of its creators, many Woodland Indians welcomed the civilization policy, and by 1800 a growing number of Native Americans were adopting European lifeways. Hundreds of Cherokee, Choctaw, Creek, Delaware, and Wyandot families were raising cattle and horses, making their own cloth, and selling their crops for cash. A small but growing number of Indian parents sent their children to mission schools, believing that the skills taught there would make it easier for their progeny to negotiate with white Americans. Federal gifts of livestock, plows, spinning wheels, and educational assistance thus contributed to a process of acculturation that Indians had already begun on their own.

This process was, however, selective, and those who adopted new lifeways sought to blend them with traditional beliefs and social structures. Choctaw and Cherokee agriculturalists, for instance, preserved their traditional gender roles—according to which women tilled the soil and men hunted—by raising livestock, which allowed male farmers to maintain their traditional masculine identification with animals, and by purchasing African American slaves to work in their fields. The Senecas imprinted the civilization program with their own cultural stamp by incorporating it into a new religion called the Gaiwaio, which was preached by the prophet Handsome Lake. Handsome Lake urged his followers to adopt the white man's artifacts (such as plows and frame houses) but also to revive old ceremonies, such as the white dog sacrifice, and to abandon alcohol and witchcraft.

Some Woodland Indians rejected the civilization program altogether. These "nativists," as some scholars call them, fol-

lowed the teachings of prophets, such as Tenskwatawa, who implored Native Americans to renounce European clothing and tools, or joined the Creek Indians' Red Stick movement, whose adherents destroyed the fences and livestock of acculturated Creeks. The nativists also rejected the land cessions their chiefs had made to the U.S. government and fought against the United States during the War of 1812.

The Waning of Support

The dedication of white American leaders to Indian assimilation eroded sharply after 1815. Some former advocates of the civilization program, such as John Adams, dropped their support after ten thousand Indian warriors fought with Britain against the United States in the War of 1812. Also, a growing number of American congressmen and officials were from Western states, and from a settler population that had always considered Native Americans uncontrollable "savages" who threatened their lives and livelihoods. Five new trans-Appalachian states (Alabama, Illinois, Indiana, Mississippi, and Missouri) entered the Union between 1816 and 1821, and their representatives demanded that the U.S. government terminate the civilization program and drive the Woodland Indians across the Mississippi River.

Meanwhile, federal officials, such as Thomas McKenney, who became the first superintendent of Indian affairs in 1824, and Lewis Cass began arguing that the civilization policy was failing because the advance of white settlements was culturally poisoning the Woodland Indians. Indians living in the vicinity of frontiersmen and fur traders, these critics charged, tended to absorb all of their vices and acquire none of their virtues. Only by removing Indians to an isolated reserve could the U.S. government hope to complete the task of "civilizing them." By the early 1830s, supporters of the Indian civilization program were joining with its opponents in advocating the transfer of eastern Indians to trans-Mississippi reservations. The Indian civilization program thereby became one of the foundations of the policy that was to succeed and supplant it: Indian removal.

The removal program, however, did not permanently erase the desire of American policy makers to assimilate the United States' Indian population. Assimilation returned to the forefront of U.S.-Indian relations after the Civil War (1861–1865), when President Ulysses S. Grant proposed a new "peace policy" toward the trans-Mississippi Indian nations. The program replaced Indian agents (for a time) with Christian missionaries, established new industrial schools for Native American children, and provided (under

the Dawes Act) for the allotment-in-severalty of Indian reservation lands. The new policy represented, in many ways, the final fulfillment of the old civilization policy, but it did not bring white Americans any closer to accepting Native Americans as fellow citizens, and it ultimately introduced new hardships to Indian families already ravaged by war and removal.

See also *Grant, Ulysses S.; Hawkins, Benjamin; Jefferson, Thomas; Knox, Henry; McKenney, Thomas L.; Removal; Trade and Intercourse Acts; U.S. Indian Policy: Congress and the Executive, 1775–1803.*

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BIBLIOGRAPHY

- Beaver, R. Pearce. *Church, State, and the American Indians: Two Centuries of Partnership in Missions between Protestant Churches and Government*. St. Louis: Concordia Publishing House, 1966.
- Berkhofer, Robert, Jr. *The White Man's Indian: Images of the American Indian from Columbus to the Present*. New York: Vintage, 1979.
- Dippie, Brian. *The Vanishing American: White Attitudes and U.S. Indian Policy*. Middletown, Conn.: Wesleyan University Press, 1982.
- Dowd, Gregory Evans. *A Spirited Resistance: The North American Indian Struggle for Unity, 1745–1815*. Baltimore: Johns Hopkins University Press, 1992.
- Ford, Paul, ed. *Works of Thomas Jefferson*. Vol. 9. New York: G. P. Putnam's Sons, 1905.
- Henri, Florette. *Benjamin Hawkins and the Southern Indians, 1796–1816*. Norman: University of Oklahoma Press, 1986.
- Horsman, Reginald. *Expansion and American Indian Policy, 1783–1812*. East Lansing: Michigan State University Press, 1967.
- McLoughlin, William. *Cherokees and Missionaries, 1789–1839*. New Haven, Conn.: Yale University Press, 1984.
- Prucha, Francis Paul. *American Indian Policy in the Formative Years: The Trade and Intercourse Acts, 1790–1834*. Cambridge, Mass.: Harvard University Press, 1962.
- Sheehan, Bernard. *Seeds of Extinction: Jeffersonian Philanthropy and the American Indian*. Chapel Hill: University of North Carolina Press, 1973.
- Viola, Herman J. *Thomas L. McKenney, Architect of America's Early Indian Policy, 1816–1830*. Chicago: Sage Books, 1974.

Clark, George Rogers

The elder brother of noted explorer William Clark, George Rogers Clark (1752–1818) won several victories against British possessions in the Illinois Country early in the American Revolutionary War (1775–1783) and was instrumental in establishing peace with several tribes in the region after that conflict.

After serving as a junior officer in the Virginia militia during Lord Dunmore's War against the Shawnee in 1774, Clark established a claim in Kentucky, which at the time fell within the far western bounds of Virginia. In 1777 he proposed to

Virginia governor Patrick Henry an attack on British-held towns in the Illinois Country with the ultimate objective of an attack on Fort Detroit. Throughout the next two years his militia forces defeated the British at Cahokia, Kaskaskia, and twice at Vincennes. Due to a lack of men and resources on the part of Virginia's government, however, Clark was never able to mount his planned assault on Detroit. He spent the rest of the war attacking Shawnee villages in the Ohio Country.

After the war Clark served as the Indian commissioner for the Old Northwest Territory. His many successful negotiations culminated with the Treaty of Fort McIntosh with the Delawares, Wyandots, Chippewas, and Ottawas in 1785 and the Treaty of Fort Finney with the Shawnees in 1786. From that point, his life descended into drunkenness and poverty. His reputation suffered greatly when he attempted to lead an expedition against the Spanish in Louisiana in 1793 without the consent of the U.S. government. He died in Louisville, Kentucky, in 1818.

See also *Lord Dunmore's War (1774).*

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BIBLIOGRAPHY

- Bakeless, John. *Background to Glory: The Life of George Rogers Clark*. Lincoln: University of Nebraska Press, 1957.
- Harrison, Lowell H. *George Rogers Clark and the War in the West*. Lexington: University Press of Kentucky, 1976.
- James, James Alton. *The Life of George Rogers Clark*. Chicago, Ill.: University of Chicago Press, 1928.

Clark, William

William Clark (1770–1838) was a well-known American explorer and soldier. He served as a militiaman against the Indians in the Ohio Valley starting in 1789, and took part in the Battle of Fallen Timbers in 1794. He retired from the army in 1796, but quickly accepted the invitation from Meriwether Lewis to explore the Louisiana Territory in 1803. Lewis selected Clark for his knowledge of Indians and his understanding of their diplomatic protocols.

On the two-year-long expedition, known as the Corps of Discovery, Clark drew detailed maps of the area and made several contacts with the numerous Indian tribes who lived in the territory. Clark knew that the expedition depended on the goodwill of the Indians, and even as he declared to them that they now lived in the territory of the United States, he worked to stay in their good graces. After Clark returned from the expedition, Jefferson appointed him as the

principal Indian agent for the Louisiana Territory and brigadier general of the militia.

In 1813 Clark was appointed governor of the newly established Missouri Territory. After losing an election for governor of Missouri in 1820, he served as superintendent of Indian affairs for the upper Missouri and Mississippi region. While in office, Clark concerned himself with strengthening the area's settlements against hostile Indians, establishing friendly relations with the tribes in the region, and organizing the removal of several tribes from the east of the Mississippi to west of the river.

See also *Fallen Timbers, Battle of (1794); Jefferson, Thomas; Lewis and Clark Expedition.*

James E. Seelye Jr.

BIBLIOGRAPHY

- Buckley, Jay H. *William Clark: Indian Diplomat*. Norman: University of Oklahoma Press, 2008.
- Foley, William E. *Wilderness Journey: The Life of William Clark*. Columbia: University of Missouri Press, 2004.
- Jones, Landon Y. *William Clark and the Shaping of the West*. New York: Hill and Wang, 2005.
- Ronda, James. *Lewis and Clark among the Indians*. Lincoln: University of Nebraska Press, 2002.

Clinton, Bill

President William Jefferson Clinton (1946–) generally signed laws and executive orders that favored tribal nations and Native Americans, though some question whether his work was more symbolic than substantive. Clinton became the first sitting president since Franklin D. Roosevelt (1933–1945) to visit a tribal reservation when he traveled to the Oglala Sioux Pine Ridge reservation in South Dakota in 1999 as part of a cross-country campaign to economically depressed regions.

Clinton (1993–2001) was the first president to invite leaders of all tribal nations across the country to meet with him in Washington, D.C., to discuss relations between tribal governments and the federal government. From that 1994 meeting came an executive order entitled Consultation and Cooperation with Tribal Governments, which Clinton signed on November 6, 2000. The order directed federal agencies to develop standards for consulting with tribes. Furthering his stated goal of increasing federal recognition of tribal sovereignty, Clinton also signed the reauthorization of the Indian Self-Determination and Education Assistance Act in 2000, which enhanced self-governance for tribal governments.

Additionally, Clinton signed orders that expanded protection for Native American religious freedom. His executive order on sacred sites directed federal agencies not to physically disturb those sites and to ensure access to them for tribal members. This order, however, had limited practical impact since it included other statements that detracted from its enforcement. He also issued the administration's Policy Concerning Distribution of Eagle Feathers for Native American Religious Purposes, which directed federal agencies to change their policies and procedures to ensure Indian people would have access to eagle feathers for their ceremonies and rituals.

President Clinton nominated long time Menominee activist Ada Deer for the post of assistant secretary of the interior for Indian affairs. She was the first Native American woman to hold that position. During her time at Interior, the Alaska Native villages were included on the list of federally recognized tribes published by the Bureau of Indian Affairs.

Clinton's second assistant secretary was Kevin Gover (Pawnee), an attorney and former professor at Arizona State University, Sandra Day O'Connor School of Law. During his time in the office, Gover issued a formal apology to Indian people on behalf of the Bureau of Indian Affairs for its history of inhumane treatment of Native Americans.

Among President Clinton's other accomplishments was the groundbreaking of the National Museum of the American Indian in Washington, D.C., in 1999. The museum was completed in 2004. Also, in 1993, Congress passed, and the president signed, an apology to Native Hawaiians for the overthrow of their government.

A class action lawsuit was filed in 1996 against the federal government during Clinton's administration to demand an accounting of the money held in Individual Indian Money accounts, which were grossly mismanaged for decades. The suit, filed by lead plaintiff Elouise Cobell, was ongoing as of mid-2008. In 1999 members of President Clinton's cabinet were held in contempt by the judge for failing to comply with court orders associated with the case.

See also *Cobell Litigation*; *Deer, Ada E.*; *Gover, Kevin*; *Indian Self-Determination and Education Assistance Act of 1975*; *Religious Freedom*; *Sacred Sites*.

Kathryn Fort

BIBLIOGRAPHY

"Apology Resolution," Public Law 103-150, 103rd Cong., 1st sess. (November 23, 1993).

Bonham, Charlton H. "Devils Tower, Rainbow Bridge, and the Uphill Battle Facing Native American Religion on Public Lands." *Law & Inequality*, vol. 20 (Summer 2002): 157-202.

Bowman, Christopher Barrett. "Indian Trust Fund: Resolution and Proposed Reformation to the Mismanagement Problems Associated with the Individual Indian Money Accounts in Light of *Cobell v. Norton*." *Catholic University Law Review*, vol. 53, no. 2 (2004): 543-576.

Wood, Mary Christina. "Fulfilling the Executive's Trust Responsibility Toward the Native Nations on Environmental Issues: A Partial Critique of the Clinton Administration's Promises and Performance." *Environmental Law*, vol. 25, no. 3 (1995): 733-800.

Cloud, Henry Roe

Henry Roe Cloud (1884-1950), a Winnebago (Ho-Chunk) Indian of the Bird clan, was a prominent teacher and official in the U.S. government. Born in 1884 on a reservation in Nebraska, Cloud is believed to be the first Native American to attend Yale University, graduating in 1910 and gaining his master's degree in anthropology in 1912. He became well-known around the university because of his public speaking skills and was a member of Elihu, the Yale secret society. He was also one of the early members of the Society of American Indians.

While at Yale, Cloud attended a lecture by missionary Mary Wickham Roe and learned about the evangelical work being undertaken among Indians. He took "Roe" as his middle name and began to focus on Native American education. He became president of the American Indian Institute in 1915 and served as superintendent of Haskell Institute, later the Haskell Indian Nations University, in Lawrence, Kansas, and later of the Umatilla reservation at Pendleton, Oregon. Cloud became editor of the *Indian Outlook* and assisted in the 1926-1929 survey of the Indian Office that resulted in the *Meriam Report*, which detailed federal mismanagement of Indian lands and programs.

In 1936 Cloud was appointed supervisor-at-large of the Office of Indian Affairs. In his last years he transcribed the genealogies of the Oregon coastal Indians after a court award of \$16 million as compensation for illegal land seizures. He died February 9, 1950, in Siletz, Oregon.

See also *Haskell Indian Nations University*; *Meriam Report*.

Justin Corfield

BIBLIOGRAPHY

Edmunds, Russell David, ed. *American Indian Leaders: Studies in Diversity*. Lincoln: University of Nebraska Press, 1980.

Clum, John P.

John P. Clum (1851–1932) was one of the youngest and most accomplished Indian agents in the nineteenth-century American West. In 1874, after briefly serving as a weather observer in Santa Fe, New Mexico, Clum was appointed Indian agent at the San Carlos White Mountain Apache reservation in the Arizona Territory. At the age of twenty-three, he found himself in charge of one of the most isolated and volatile Indian agencies.

Prior to Clum's arrival, the military firmly ruled the Apache reservations, allowing government agents little voice in agency affairs. Clum realized the harmful effects of martial rule, and with the backing of the Office of Indian Affairs, asserted civilian control over the agency. To eliminate the need for military protection and bring some degree of self-rule to San Carlos, Clum created an Indian police force and court system. Apache police arrested intruders, monitored potential troublemakers, enforced the ban on alcohol, and arrested those who were deemed "renegades," including Geronimo. Shortly thereafter, the Office of Indian Affairs used Clum's police force as a model, introducing similar institutions at all Indian agencies.

Due to Clum's skillful administration and his general acceptance by Apache leaders, the government moved toward consolidating all the Apaches onto one reservation administered by the young agent. In March 1875 over 1,400 Apaches from Camp Verde Agency were moved to San Carlos. Eventually over five thousand Apaches were put under Clum's rule.

Clum resigned his post in 1877 after continued conflict with the military and what he deemed a lack of support from the Office of Indian Affairs. Thereafter he ventured to Tombstone, Arizona Territory, where he edited the *Tombstone Epitaph* and served as town mayor in 1881. After spending time in Alaska, Clum bought a citrus ranch in Southern California. He died in Los Angeles in 1932.

See also *Geronimo; Reservations.*

Mark R. Ellis

BIBLIOGRAPHY

- Clum, John P. "The San Carlos Apache Police." *New Mexico Historical Review*, vol. 2 (July 1929): 203–19.
- Hagan, William T. *Indian Police and Judges: Experiments in Acculturation and Control*. New Haven, Conn.: Yale University Press, 1966.
- Tate, Michael L. "John P. Clum and the Origins of an Apache Constabulary, 1874–1877." *American Indian Quarterly*, vol. 3 (Summer 1977): 99–120.

Cobell Litigation

In *Cobell v. Kempthorne et al.* (D.D.C. 1996), a complex class action suit, thousands of American Indian leaseholders took the government to task for mismanaging their earnings held in federal law-mandated trust accounts.

On June 10, 1996, five American Indian landowners filed a lawsuit in the U.S. District Court for the District of Columbia against the federal government for mismanagement of trust funds associated with Individual Indian Money (IIM) accounts. These accounts hold the earnings of individual Indians associated with oil and gas and other mineral leases on individual Indian allotment lands. Under federal law, the federal government manages these trust accounts instead of allowing individual Indians to deposit these funds into private accounts.

The plaintiffs in *Cobell* alleged that the federal government breached its duties as trustee by not providing statements on the accounts, by failing to keep adequate records of how much money was due under each account, and by failing to provide funds to the IIM account holders. Citizens of the United States are generally free to choose their own bank, but for American Indian allottees the federal government serves as the bank for income derived from Indian lands.

Plaintiffs in the *Cobell* lawsuit now number between 300,000 and 500,000 IIM account holders from hundreds of tribes. These account holders are suing to ensure that the federal government is held to the same standards as any other bank that oversees individual deposit accounts.

The case has been divided into two parts. Phase I includes fixing or reforming the management and accounting of the IIM trust accounts. Phase II addresses the historical accounting, or lack thereof, associated with IIM accounts.

The trial for Phase I lasted six weeks. In its December 21, 1999, opinion, the district court found that the federal government had breached its fiduciary duty under the Indian Trust Fund Management Reform Act of 1994 to account accurately for all money in the IIM accounts. The court also found the government had failed to retrieve and retain all information needed to render an accurate accounting of the IIM trust, to establish written policies and procedures with the necessary technical support, and to staff business systems architecture for trust management functions. As a result, the federal government was required to submit quarterly status reports to the court summarizing its progress in meeting its fiduciary duties to the IIM trust beneficiaries. In short, the

court determined that the federal government's accounting system for the IIM accounts was broken, and the government was ordered to correct the problem.

The numerous appeals by the federal government that followed the 1999 district court opinion ultimately resulted in reassignment of the case to a different judge at the district court level. Meanwhile, federal officials were held in contempt for their failure to produce documents and follow court orders.

Because the accounting system is flawed, it is impossible for the federal government to determine exactly how much money is owed each IIM account holder. The plaintiffs estimate that the total compensation is \$27.5 billion. The federal government's estimation is much lower.

In 2005, in an attempt to resolve the case, Sen. John McCain, R-Ariz., introduced a bill that would provide \$8 billion to end the case, settle other pending claims, and support Indian trust asset management reform. The Senate Committee on Indian Affairs held several hearings on the bill, but as of 2008 the bill had not moved forward and no settlement had been reached.

On April 20, 2007, the district court restated that after nineteen decisions of the court, orders were still in effect that required the government to produce a statement for each account and make quarterly progress reports toward that goal. A ten-day trial on the Phase II historical accounting ended on October 25, 2007. In August 2008, a federal court judge ruled that the Native American account holders were owed \$455 million, far short of the \$47 billion sought. The plaintiffs are considering further appeal.

As of 2008, over 210 days of evidentiary hearings had been devoted to this case. Both parties agree that at least \$13 billion passed through the IIM accounts in the 1900s. However, they continue to disagree about whether the proper amounts have been paid out to IIM account holders.

See also *Mining and Mineral Rights; Oil and Gas.*

Kathleen R. Supernaw

BIBLIOGRAPHY

Cobell v. Kempthorne, et al. Case No. 1:96CV01285 (D.D.C.). U.S. Department of Justice, www.usdoj.gov/civil/cases/cobell/index.htm. "Indian Trust: Cobell v. Kempthorne." www.indiantrust.com.

Cochise

Cochise (c.1810–1874), the leading Apache war chief of the second half of the 1800s, was officially only the leader of the

Chokonon band of Chiricahua Apaches. Known for his fighting skills, intelligence, honesty, and uniquely strong influence in a culture not given to absolute authority, he was widely respected and had influence over all Apaches. Among the Apaches, Cochise was his generation's central figure in the battle to maintain their land base against Mexican and U.S. intruders.

Cochise was allied with Victorio, Juh, and Nana, all other influential Apaches. Geronimo, the famed Apache war leader of the next generation, fought alongside Cochise.

Cochise battled against Mexican and U.S. settlers for forty years with varying degrees of intensity. However, he began an all-out war against the United States in 1861, after he was attacked during a meeting with military personnel and his brother and other relatives were hanged. For the next five years, Cochise and his warriors controlled southeast Arizona. The most well-known battle between Cochise's forces and the United States took place at Apache Pass in 1862. The Apaches' war effort was aided by their ability to cross the Mexican–U.S. border to safety and by the fact that the U.S. military was focused on the Civil War (1861–1865) during this period.

The fighting continued until 1872, by which time Cochise had decided that peace with the United States was the only option. He negotiated a treaty with General O. O. Howard, holding out until he won two concessions: his friend Thomas Jeffords as agent, and a reservation in southeastern Arizona instead of on the Rio Grande. Cochise died two years later.

See also *Geronimo.*

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BIBLIOGRAPHY

Aleshire, Peter. *Cochise: The Life and Times of the Great Apache Chief*. New York: John Wiley and Sons, 2001.
Sweeney, Edwin R. *Cochise: Chiricahua Apache Chief*. Norman: University of Oklahoma Press, 1991.

Coeur d'Alene War (1858)

The Coeur d'Alene War of 1858 was largely an outgrowth of the Yakama War of 1855, which had erupted in response to the imposition of the reservation system in the Pacific Northwest. Although contemporaries perceived them as separate conflicts, they involved many of the same groups and are often lumped together as the Plateau Indian Wars. After suffering military defeats in 1855 and 1856, Kamiakin,

Qualchan, and other “hostile” Yakama Indians traveled throughout the Interior Northwest urging Indians to unite and continue fighting the United States. Many Natives joined the alliance because they feared the United States would continue to move onto their lands, while others tried to remain neutral or even served as scouts for the Americans.

The Coeur d’Alene phase of the war began in May 1858, when the United States sent 160 soldiers from Fort Walla Walla to Colville, Washington, to punish “renegade” Palouses for killing American settlers. The troops were met near present-day Steptoe Butte by more than one thousand warriors—including members from the Spokane, Coeur d’Alene, Palouse, Yakama and Columbia tribes—who forced the soldiers to retreat after taking minor casualties. In response, the U.S. government dispatched a force of some seven hundred troops, led by Colonel George Wright, to locate and defeat those responsible.

At the Battle of Four Lakes and the Battle of Spokane Plains in September, the confederated Indian forces suffered serious setbacks that undermined their ability to recruit additional allies and continue fighting. Over the next few weeks, Wright’s army participated in several small battles and destroyed much of the Indian property they came across, starting with the slaughter of eight hundred Indian horses seized after the Battle of Spokane Plains. By the end of the month, Wright had forced most of the remaining Indians to surrender. The majority moved onto reservations after Congress ratified the treaties signed in the Pacific Northwest in 1855. Some Indians were not captured, however, and the implementation of the reservation policy sparked further violence in the Northwest during the 1860s and 1870s.

See also *Kamiakin; Reservations; Yakama War (1855–1856).*

Ryan P. Seelau

BIBLIOGRAPHY

- Axelrod, Alan. *Chronicle of the Indian Wars: From Colonial Times to Wounded Knee*. New York: Prentice Hall, 1993.
- Glassley, Ray H. *Pacific Northwest Indian Wars*. Portland, Ore.: Metropolitan Press, 1953.
- Ruby, Robert H., and John A. Brown. *Indians of the Pacific Northwest: A History*. Norman: University of Oklahoma Press, 1981.
- . *The Spokane Indians: Children of the Sun*. Norman: University of Oklahoma Press, 1970.
- Utey, Robert M., and Wilcomb E. Washburn. *Indian Wars*. Boston: Mariner Books, 2002.

Cohen, Felix S.

Felix Solomon Cohen (1907–1953) was the man who wrote the book on American Indian law. The author of *Cohen’s Handbook of American Indian Law*, he received his bachelor’s degree from the City College of New York (1926), his doctorate in philosophy from Harvard University (1929), and his law degree from Columbia University (1931). Cohen was an attorney with the Solicitor’s Office of the Interior Department during President Franklin Roosevelt’s New Deal (1933–1947). It was during this long service that he drafted the Indian Reorganization Act of 1934 (IRA), which helped change the government’s Indian policy from one aimed toward assimilation to one in which the government recognized the tribes as sovereign political and economic entities.

When passed, the IRA was considered a bold move, for it attempted to provide Indian tribes more control over their own affairs. Criticisms of the act developed, with critics arguing that the tribes were forced to follow a democratic, capitalistic model of government that did not always fit with tribal customs and traditions. John Collier, the commissioner of Indian affairs at the time, encouraged the tribes to establish constitutions under the IRA; Cohen advised tribal leaders on how to construct constitutions that satisfied the law’s restrictions. He drafted model constitutions for tribes to follow if they wished, but never believed that all tribes had to follow the same model. Some in the Office of Indian Affairs, however, did try to impose constitutions on the tribes.

Cohen developed a reputation as an expert in Indian law. In 1939 he was appointed chief of the Indian Law Survey, a joint project with the interior and justice departments. The Justice Department wanted a litigation manual to use when bringing cases against the Indians, but Cohen had a vision of a book that would incorporate all of Indian law. Cohen was the creator, writer, and editor of the *Handbook of Federal Indian Law*, published by the Interior Department in 1941. The *Handbook* was a complete treatise on Indian law, analyzing cases and statutes and setting forth historical and philosophical arguments on Indian rights, including rights that Indians had in relation to the state and federal governments. It was a reflective and scholarly work, visionary in its direction and approach. The *Handbook* was the first book to comprehensively examine the existing laws, statutes, and cases dealing with Indian issues, and to set them forth in a readable and understandable format, with commentary. The

scope of the book extended far beyond what rights the government had when dealing with the Indians. It also looked at the government's responsibilities to the tribes and the Indians' rights in dealing with the federal government, including rights of self governance and tribal sovereignty.

Cohen was part of the American legal realism movement. His philosophy of law—functional jurisprudence—focused on how a court's decision would impact the litigant and society as a whole. Functional jurisprudence incorporates science, sociology, and history. As a lawyer, Cohen saw it as his duty to take the ideals of democracy and make them work. He argued that judges should not only look at precedent but also should be realistic and consider the social and moral effects a case would have on society. The *Handbook* was his most complete expression of his theory of functional jurisprudence as it applied to Indian rights. Rather than merely list and describe cases, Cohen reviewed their historical context and the impact of the decisions on the Indians. If he believed a case had not been properly decided, he would explain the social outcome of the decision and why that outcome was not desirable. The *Handbook* has been revised several times, including most recently in 2005.

Cohen was also responsible for the forty-six-volume *Statutory Compilation of the Indian Law Survey: A Compendium of Federal Laws and Treaties Relating to Indians* in 1940. When he left the Interior Department in 1946, he was awarded the Distinguished Service Award, the department's highest honor. He entered private practice and represented Indian tribes, helping secure voting rights and social security benefits for Indians in Arizona and New Mexico.

From 1946 until his death in 1953, Cohen taught jurisprudence at City College and legal philosophy and legislative drafting at Yale Law School. He was a prolific writer and authored many articles on legal philosophy, Indian rights, legal ethics, civil rights, and minority issues. He coauthored the textbook *Readings in Jurisprudence and Legal Philosophy* with his father, philosopher Morris Raphael Cohen.

See also *Bureau of Indian Affairs*; Collier, John; *Constitutions, American Indian*; *Indian Reorganization Act (1934)*.

Jill E. Martin

BIBLIOGRAPHY

- Cohen, Felix S. *Cohen's Handbook of Federal Indian Law*. Washington, D.C.: Government Printing Office, 1942.
- . *Ethical Systems and Legal Ideals*. New York: Harcourt, Brace and Company, 1933.

———. *On the Drafting of Tribal Constitutions*. Lincoln: University of Nebraska Press, 2007.

———. "The Problems of a Functional Jurisprudence." *Modern Law Review*, vol. 1 (June 1937): 5–26.

Cohen, Lucy Kramer, ed. *The Legal Conscience: Selected Papers of Felix S. Cohen*. New Haven, Conn.: Yale University Press, 1960.

Cohen, Morris R., and Felix S. Cohen. *Readings in Jurisprudence and Legal Philosophy*. New York: Prentice Hall, 1951.

Colbert Family

When Americans put increasing demands on the southeastern Indians for land cessions, the Chickasaws relied on men of mixed descent with greater fluency in English to conduct their negotiations with Americans. From the 1790s through the mid-1830s, George (1764–1839) and Levi Colbert (1759–1834) directed Chickasaw negotiations with the U.S. government. Sons of a Chickasaw woman named Noe and James Logan Colbert, a Georgia trader who married into the Chickasaw Nation in 1758, they were about a generation older than their bicultural counterparts among neighboring tribes and lacked a formal Christian education. Only James Logan Colbert's youngest son, James, was literate, and he played a minor role in the politics leading to removal.

Like the mixed ancestry elites of other tribes, George (Tootemastubbe) and Levi (Itawamba) Colbert owned livestock, slaves, hundreds of horses, and a wide array of farming implements, which they attained through inheritance, trade, military service, and gifts from U.S. agents. In the early 1800s, George orchestrated the laying out of the Natchez Trace, secured the exclusive right for Indians to operate businesses on it, and enriched himself through a ferry operation that he located on it. As they enjoyed commercial success through the Chickasaws' ancient social structure, the Colberts defended it and thereby maintained their people's loyalty.

The Colberts came to power through traditional channels, as war chiefs and then as counselors to tribal leaders. U.S. interpreter Malcolm McGee noted that Chickasaw leader Chinubee asked George Colbert to serve as principal chief in dealings with the United States because he was fluent in English. In 1812, at the age of forty-eight, George Colbert resigned from this service to look after his business affairs and Levi took his place. A nephew described Levi as the "second controlling chief" to Chinubee's successor Ish-to-pa-ha, and in 1828 U.S. commissioner Thomas McKenney called Levi the "Speaker of the Nation."

As U.S. pressure to abandon their lands mounted, the Chickasaws and the Colberts became increasingly defensive

of their old ways and resisted unwanted changes in their culture. U.S. officials stated that George Colbert fought against education, missionaries, and alcohol in his later years. In an effort to prevent the removal of their tribes to the West, the Chickasaw national council passed a formal resolution in 1826 against any individual's receiving a private reservation, or other type of monetary payment, in exchange for tribal lands. Plainly embarrassed by this act, the Colberts admitted that they had accepted personal payments from treaty officials in earlier negotiations; however, they insisted that Colbert wealth was gained by exploiting whites, not other Chickasaws.

In 1827 McKenney met privately with Levi and his main supporters to discuss removal. McKenney was a family friend charged with Levi's eldest son's education. Colbert made no commitment to removal at this meeting but agreed to send a party to view the lands in the West. In an aborted attempt to turn the Chickasaws against Colbert, U.S. agent Benjamin Smith spread rumors that Colbert had sold the Chickasaw homeland. Colbert had to call a special assembly to allay the fears of the Chickasaws. Agent Smith, irate at Colbert's uncooperative stance on removal, demanded that U.S. officials cease their correspondence with him. However, the Chickasaws counted on Colbert to relay their grievances (mostly reports of white theft of their horses and other property) to the Office of Indian Affairs.

Although the Chickasaws were wary of Levi's negotiations with U.S. treaty agents, his authority among his people remained strong. In 1828 and again in 1830 they chose Levi to lead an exploration to view a potential new site for settlement west of Arkansas. The party found no satisfactory lands.

As U.S. pressure intensified, the aging Levi Colbert grew ill and was unable to attend further treaty negotiations. Colbert protested the removal Treaty of Pontotoc, negotiated during his absence in 1832, on the grounds that it would profit the minority of Indians who had assimilated into U.S. society to the disadvantage of the less educated majority. Chickasaw protests over the corrupt reservation system that resulted from the treaty led the United States to resume negotiations with the Natives. The Chickasaws were the last of the southeastern tribes to sign a final removal agreement, the Treaty of Doaksville (1837), which settled them in the Choctaw's new country in the Indian Territory. Levi Colbert, who passed away in 1834, did not live to see his people's forced removal to Indian Territory. George led his own removal party to Choctaw lands in present-day Oklahoma.

See also *Indian Territory*; McKenney, Thomas L.; *Removal*.

Wendy St. Jean

BIBLIOGRAPHY

- Atkinson, James R. *Splendid Land, Splendid People: The Chickasaw Indians to Removal*. Tuscaloosa: University of Alabama Press, 2004.
- Champagne, Duane. *Social Order and Political Change: Constitutional Governments among the Cherokee, the Choctaw, the Chickasaw, and the Creek*. Stanford, CA: Stanford University Press, 1992.
- Fitzgerald, David, Jeannie Barbour, Amanda J. Cobb, and Linda Hogan. *Chickasaw: Unconquered and Unconquerable*. Ada, OK: Chickasaw Press, 2006.
- Foreman, Grant. *Indian Removal: The Emigration of the Five Civilized Tribes of Indians*. Norman: University of Oklahoma Press, 1972.
- Gibson, Arrell Morgan. *The Chickasaws*. Norman: University of Oklahoma Press, 1971.
- Martini, Don. *Chickasaw Empire: The Story of the Colbert Family*. Ripley, MS: D. Martini, 1986.
- Young, Mary Elizabeth. *Redskins, Ruffshirts, and Rednecks: Indian Allotments in Alabama and Mississippi, 1830–1860*. Norman: University of Oklahoma Press, 1961.

Collier, John

Commissioner of Indian affairs from 1933 to 1945, John Collier (1884–1968) was the architect of the Indian New Deal, a series of programs that sought to slow the pace of Indian assimilation in the United States and end policies that endangered Indian people, their communities, and their culture.

Born on August 4, 1884, the fourth of seven children, Collier grew up believing that societal wrongs could be righted through communal action. He attended but never graduated from Columbia University. His first job in the public arena was secretary of the People's Institute in New York City, beginning in 1907, and his work on behalf of new immigrants further reinforced his belief in collective action. He also felt that distancing newly arrived immigrants from their ethnic heritage was not necessary to ensure their assimilation into American society. During his tenure at the institute, Collier learned the basic formulas that guided his Indian policy.

Collier left the People's Institute in 1919 when federal funding for the program ended. He moved west and took a position as the director of adult education in California. One year later Collier received an invitation from his close friend Mabel Dodge to come to New Mexico. The trip offered him his first contact with Indian people.

Collier joined Dodge in Taos, New Mexico, and became a close observer of the problems confronting the Pueblo Indians. Living with the Pueblos, Collier realized that

Indians were the personification of his beliefs—they maintained a sense of communal spirit despite centuries of assault on their culture. He felt as though he had discovered a “lost” civilization, one he termed a “Red Atlantis.”

Collier took a position as a researcher for the Indian Welfare Committee of the General Federation of Women’s Clubs in 1922. He was convinced that he could put his skills to work for the Pueblos. As a researcher he emerged onto the national political scene by helping to block the Bursum Bill, which sought to negate Pueblo land grants issued by the king of Spain in the sixteenth and seventeenth centuries and open Pueblo territory to white settlement. Collier established the American Indian Defense Association (AIDA) to put his personal philosophy into action. Among its numerous priorities, the AIDA called for an investigation of federal Indian policy; demanded the preservation of Indian cultures; asked for guarantees of political and economic rights for tribes; and called for an end of the General Allotment Act (Dawes Act), which sought the individual allotment of Indian lands. Collier worked nonstop for the next ten years, hoping to stem the assimilationist policies he believed damaged Indian people already suffering from the effects of colonial policies.

The 1932 election of Franklin Delano Roosevelt as president signaled a major shift in American political thinking and had a significant effect on Indian affairs. In liberal political circles, the failure of the allotment policy was evident, and the assimilationist thinking supporting it was no longer popular. For like-minded easterners, Collier was the only choice to run the Office of Indian Affairs (OIA), and in April 1933 he was asked to become commissioner of the organization, a post he held for the next twelve years. Collier’s background in federal Indian policy gave him a unique perspective; his superiors stated that he was the most qualified person to ever hold the office.

Collier promised to extend the policies of Roosevelt’s New Deal to Indian America. He cancelled Indian debts to the federal government for irrigation projects; diverted millions from New Deal programs to Indian-specific programs such as the Indian Civil Conservation Corps; and passed the Pueblo Relief Bill (finishing what he had started with his fight against the Bursum Bill), which repaid the Pueblos for lands appropriated by illegal settlers. Collier also moved to hire more Indians within the bureau. Later, he furthered interagency cooperation between his department and the Department of Agriculture.

The cornerstones of Collier’s promise to Indian people were the Johnson-O’Malley Act and the Indian Reorgani-



John Collier, center, served as commissioner of Indian Affairs and was also the founder of the American Indian Defense Association.

zation Act (IRA). The Johnson-O’Malley Act, passed in 1934, was a basic federal aid program designed to provide funds to local off-reservation communities where Indians were mixed in with the general population. The act allowed the federal government to make contracts with states for Indian education, medical care, and welfare services.

The IRA was designed to be the comprehensive plan to extend the New Deal into Indian Country. It ended land allotments, restored surplus lands to tribes, and established financial aid rules for Indian students in higher education. The act allowed for the formation of tribal corporations and permitted the drafting of tribal constitutions and the organization of governments in an effort to revitalize tribal political, legal, and economic autonomy. It was criticized, however, for forcing a western capitalist structure—the corporation—on communally based societies. Collier’s defenders argued that the commissioner was attempting to provide an institutional structure that would restore political control to the tribes and enhance their opportunities for economic development. The bill also confirmed the secretary of the interior’s responsibility for conservation of Indian lands and

committed the Interior Department to providing funds for economic development.

Collier also led efforts to promote appreciation of Native culture. He reduced the influence of Christian missionaries in boarding schools and affirmed the right of Native Americans to practice their own spiritual and religious beliefs. He also ensured that Indians received preferential hiring with the Office of Indian Affairs and created the Indian Arts and Crafts Board to protect Indian-made products with a government trademark. During the 1930s, Indian lands frequently benefited from the construction of new homes, schools, hospitals, roads, and various other programs sponsored by the New Deal.

Collier instituted soil and forest conservation policies in an effort to preserve Native economic resources for the long term, sometimes with controversial results. In an effort to stop land erosion in the American Southwest, the government killed a number of Navajo sheep, which led to starvation on the reservation and a deep distrust of Collier. The Navajo, the nation's largest tribe, thus became outspoken critics of Collier's stock reduction policy.

Like the rest of the New Deal policies, by 1939 Collier found his programs under attack from conservatives in Congress who charged that they were a barrier to assimilation. Others claimed that Collier was a communist and referred to his programs as socialist experimentation that was contrary to national interest. The real failures of the IRA, however, were that the concept of constitutional government was not well received by many Indian tribes, and BIA promotion failed. In fact, Collier's tribal government plan suffered a serious blow when the Navajo rejected almost every aspect of the Indian New Deal.

By 1941 national attention shifted from domestic reform to World War II (1939–1945), and Collier supported mobilizing Indians for the war effort. The final issue Collier dealt with as commissioner was the confinement of displaced Japanese-Americans on Indian lands. Indian nations resented the further appropriation of their territory to build camps for the Japanese-Americans and protested to demonstrate their displeasure. Collier, believing he had lost his place in a wartime administration no longer committed to Indian reform, resigned on January 19, 1945. President Roosevelt praised Collier for his work in a difficult position and reluctantly accepted the resignation. After leaving his post, Collier taught at City College of New York and Knox College in Illinois, and later spoke out in favor of indigenous rights. He died in Talpa, New Mexico, on May 8, 1968.

Controversial even in their time, Collier's policies continue to be a source of debate. In recent years, Indian activists and scholars have argued that the IRA constitutions were paternalistic and represented a continuation of the policies of assimilation. The historical legacy of the IRA and the entire Indian New Deal remains contested territory, but there can be no doubt that Collier respected the value and integrity of Native culture.

See also *Assimilation and Acculturation; American Indian Defense Association; Bureau of Indian Affairs; Bursum Bill (1922); General Allotment Act (Dawes Act) of 1887; Indian New Deal; Indian Reorganization Act of 1934; Johnson-O'Malley Act of 1934.*

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BIBLIOGRAPHY

- Biolsi, Thomas. *Organizing the Lakota: The Political Economy of the New Deal on the Pine Ridge and Rosebud Reservations*. Tucson: University of Arizona Press, 1992.
- Collier, John. *From Every Zenith: A Memoir and Some Essays on Life and Thought*. Denver: Alan Swallow, 1963.
- Daily, David W. *Battle for the BIA: G. E. E. Lindquist and the Missionary Crusade Against John Collier*. Tucson: University of Arizona Press, 2004.
- Kelly, Lawrence. *The Assault on Assimilation: John Collier and the Origins of Indian Policy Reform*. Albuquerque: University of New Mexico Press, 1983.
- Kersey, Harry A., Jr. *The Florida Seminoles and the New Deal, 1933–1942*. Gainesville: University Press of Florida, 1989.
- Philp, Kenneth. *John Collier's Crusade for Indian Reform, 1920–1954*. Tucson: University of Arizona Press, 1977.
- Taylor, Graham D. *The New Deal and American Indian Tribalism: The Administration of the Indian Reorganization Act, 1934–1945*. Lincoln: University of Nebraska Press, 1980.

Colyer, Vincent

Vincent Colyer (1825–1888) was an artist, Christian humanist, and advocate for the interests of freedmen and American Indians. A Quaker activist, Colyer served in the United States Christian Commission, which helped Union soldiers throughout the Civil War (1861–1865). During Reconstruction he founded the first freedmen's school in North Carolina. From 1869 to 1872, Colyer was the secretary of the Board of Indian Commissioners, an advisory body that studied Indian conditions and made recommendations for policy reforms to the secretary of the interior. President Ulysses S. Grant established the board under his Peace Policy. The main goal of the policy, formulated due to the government's failed Indian system, was to humanely relocate Indians on government reservations. Colyer sup-

ported the policy and believed that the government could “civilize” all of the tribes.

In 1869 Colyer visited the Alaska Territory in support of education for that area’s Natives. In the summer of 1871, he served as a peace commissioner to help assuage violence in the Southwest. His overt favoritism for the Natives did not make him popular among white settlers or the army. In the aftermath of the April 1871 Camp Grant Massacre in Arizona, he met with Akimel O’odham (Pima) and Xalychidom Piipaash (Maricopa) leaders during a stop at the Gila River Indian reservation. Colyer told the assembled dignitaries that to settle the fallout they had to make peace with the Apaches and stop raiding. Neither recommendation was followed, but Colyer did gain the support of Secretary of Interior Columbus Delano to establish reservations in the Southwest. After resigning from the board in 1872 in protest over its lack of influence over the Office of Indian Affairs, Colyer retired to Connecticut where he went on to become an artist of some renown for his portrayals of life in the West.

See also *Board of Indian Commissioners; Camp Grant Massacre; Grant, Ulysses S.; U.S. Indian Policy: Congress and the Executive, 1845–1877.*

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BIBLIOGRAPHY

- Keller, Robert H., Jr. *American Protestantism and the United States Indian Policy, 1869–1882*. Lincoln: University of Nebraska Press, 1979.
- Mardock, Robert W. “The Anti-Slavery Humanitarians and Indian Policy Reform.” *Western Humanities Review*, vol. 12 (Spring 1958): 131–145.

Comanche Wars (1835–1875)

The Comanche Wars (1835–1875) were a series of conflicts between American troops and Comanche Indians intent on protecting their Native lands from settlers. These wars cannot be dated with absolute precision, but combat on the Texas frontier was heaviest during the years 1835–1843, 1857–1860, 1863–1867, and 1872–1875.

Texas was a complicated area of conflict. There was no federally owned land in Texas because the entire Republic of Texas had been admitted as a state, a fact that also meant neither the army nor federal civilian authorities had the authority they possessed in other areas. As the number of Americans moving into Texas grew, the stage was set for bitter conflicts over land. The Comanches had advanced earlier into what became Texas and New Mexico, pushing aside many other

Indians and stopping the advance of Spanish and later Mexican settlements. As a warrior people, they were unwilling to make way for farmers and other settlers. The Comanches often asked white authorities to reduce hostilities by establishing a line beyond which settlers could not take Comanche land, but such requests were always ultimately rejected. Texans were also reluctant to establish reservations because most of them believed that those Native Americans who were not killed should be expelled from the state.

Although the image of the Comanche war tactics in United States popular culture has often been one of warriors suddenly attacking peaceful settlers, the reality was often far different. Whites were frequently the aggressors, and in some cases, bandits killed settlers and created the illusion that the killers were Comanches, further inflaming anti-Indian sentiment. Numerous attacks on Comanches, many of whom were not engaged in raiding, motivated warriors to seek vengeance for their losses. Some Texans were also simply fearful of, and antagonistic towards, the Comanches and occasionally lashed out at the Indians. For instance, in 1840 a number of prominent Comanche leaders were killed during a council with Texan negotiators at San Antonio.

An aggravating factor in the conflict was the employment of “rangers” by Texas before and after 1845. During the frontier years the Texas Rangers were often men who were more intent upon fighting Indians, especially to collect booty, than maintaining the peace. Unfortunately, the U.S. Army was eventually influenced by the attitude of the Rangers and began conducting the same kind of indiscriminate attacks.

Initially, the army had difficulty waging war on the plains, but gradually it adapted to the new conditions. By 1860 the level of fighting had been greatly reduced. During the Civil War (1861–1865), however, when federal troops were no longer on the frontier, Texas experienced renewed conflict that did not change immediately after the war’s end. The large numbers of federal troops stationed in Texas were deployed primarily to counter French forces in Mexico and to implement Reconstruction. Differences between civilian authorities responsible for Native American affairs and the army continued to hamper the application of a consistent policy.

Through negotiations leading to the Medicine Lodge Treaty in 1867, many, although by no means all, Comanches went to a reservation in Indian Territory (in what is now Oklahoma). The control exercised over them by Indian agents and the scanty rations on the reservation quickly

exhausted the patience of many Comanches, who resumed attacks on Texas.

The Red River War of 1874–1875 brought about the end of Comanche military resistance. Relatively uncoordinated but complementary troop movements were employed to exhaust Comanches and Kiowas and to force them into reservation life. Efforts to build a large coalition of Indians partly on the basis of a belief that they could now be immune to white firepower were shattered at the Second Battle of Adobe Walls in 1874 when a small party of buffalo hunters defeated a large group of Comanches, Kiowas, and Cheyennes and inflicted significant casualties. From July 20, 1874, moreover, the army was allowed to enter reservations in pursuit of “hostile” Indians. The culmination of fighting came in the Battle of Palo Duro Canyon on September 28, 1874, when Colonel Ranald S. Mackenzie’s men found a large number of Comanches in a situation where they could not flee the troops. Having separated the warriors from their horses, Mackenzie ordered some horses seized and many others shot, thereby depriving the Comanches of their mounts. Other army attacks occurred, and, finally, during 1875, the last independent Comanches gradually surrendered and were removed to a reservation.

See also *Medicine Lodge Creek (1867)*, *Treaty of; Mackenzie, Ranald S.; Red River War (1874–1875); Texas*.

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BIBLIOGRAPHY

- Anderson, Clayton Cary. *The Conquest of Texas: Ethnic Cleansing in the Promised Land, 1820–1875*. Norman: University of Oklahoma Press, 2005.
- Chalfant, William Y. *Without Quarter: The Wichita Expedition and the Fight on Crooked Creek*. Norman: University of Oklahoma Press, 1991.
- Fehrenbach, T. R. *Comanches: The Destruction of a People*. New York: Knopf, 1974.
- Hagan, William T. *Quanah Parker, Comanche Chief*. Norman: University of Oklahoma Press, 1993.
- Richardson, Rupert Norval. *The Comanche Barrier to South Plains Settlement*. Glendale, Calif.: Arthur H. Clarke Company, 1933.
- Wallace, Ernest. *The Comanches: Lords of the South Plains*. Norman: University of Oklahoma Press, 1952.

Commissioner of Indian Affairs

On March 11, 1824, Secretary of War John C. Calhoun created what he called a bureau of Indian affairs to operate within the War Department. He also established the office of commissioner of Indian affairs as the organization’s head. (Thomas L. McKenney, the first commissioner, titled his let-

terhead the “Indian Office” and usually described the bureau as the Office of Indian Affairs.) Over time the Office of Indian Affairs (OIA) evolved from a small grouping in the War Department that oversaw correspondence with the Indian tribes and trade and relocation issues to a massive bureaucracy that administered Indian lands, trust funds, and a number of social and educational programs. The responsibilities of commissioner of Indian affairs also evolved in response to the demands of the policy makers in Congress.

Precursors to the Office

In 1775 the Continental Congress, composed of delegates from the thirteen British North American colonies, met and created three departments—northern, central, and southern—to deal with Indian affairs and appointed commissioners to head each department. In particular, their efforts were focused on trying to persuade the Indian tribes on the borders of the states to remain neutral in the colonies’ war for independence.

After the united colonies won the American Revolutionary War (1775–1783) and created a new government under the Articles of the Confederation and the U.S. Constitution, they attempted to develop a centralized system for dealing with the Indian tribes. When the founders wrote the Constitution, they included Article 1, section 8, clause 3 that stated Congress had the power to regulate commerce with the Indian tribes. Congress has used this clause as the constitutional foundation of its authority over Indian relations. Territorial governors originally served as district superintendents, and a superintendent of Indian trade was responsible for overseeing the factory trading system. Federal administrators usually had a central office and administered the local agencies that dealt directly with the Indians. This federal government oversight created a conflict of interest, as the main focus of the government was not seeing to the interests of the Indians, but promoting settlement, security, and expansion for the new nation.

In 1789 Congress created a War Department and placed Indian affairs under the responsibility of its secretary. The federal government also occasionally appointed agents under the jurisdiction of the War Department who were empowered to negotiate treaties with the tribes. A chief clerk and assistant clerk were later appointed to aid the secretary of war. In 1806 Congress created the position of superintendent of Indian trade to supervise government trading posts. The superintendent frequently worked closely with the secretary of war. Thomas McKenney served as superintendent

of Indian trade from 1816 until 1824, when he assumed leadership of Calhoun's newly established OIA.

Creation of the Position

Upon his creation of the Indian affairs bureau, John C. Calhoun appointed McKenney its unofficial commissioner. McKenney believed that American Indians could and should be acculturated in preparation for assimilation into white society, and he supported the Indian Civilization Act of 1819, which provided funds for Indian education. McKenney's duties included administering the appropriations for annuities and current expenses, approving all expenditure vouchers, directing the funds for the "civilizing" of Indians, ruling on Intercourse Act claims between Indians and whites, and handling the Indian correspondence of the War Department.

McKenney faced the reality that he and his clerks were, in all practicality, overseeing all of Indian relations but lacked jurisdictional authority over their work. He argued that Congress needed to create an independent office of Indian affairs led by a department head holding the power to act on issues dealing with U.S.-Indian relations. In 1826 McKenney drew up a proposed bill that would create such an office and provide for the appointment of a general superintendent of Indian affairs. This superintendent would assume the responsibilities for Indian relations officially possessed by the secretary of war. Congress refused to adopt McKenney's suggestions; however, in 1832 it passed a bill that gave the president authority to appoint a commissioner of Indian affairs to serve under the secretary of war. The commissioner's appointment came with an annual salary of \$3,000. In 1834 Congress officially established the Office of Indian Affairs, which continued to operate within the War Department.

During its last fifteen years of operation within the War Department, the OIA oversaw and assisted in the removal of the eastern tribes to new lands across the Mississippi River.

Transfer to Interior

From the earliest days of the Indian office there were those who contended that Indian affairs did not belong in the War Department. Critics of the existing structure argued that Indian affairs was a civil rather than a military responsibility and that supervision of that responsibility detracted from the War Department's ability to run its military programs efficiently. In 1849 Congress transferred the OIA to the newly created Department of the Interior. This transfer created a change in policy and responsibilities for the commissioner. It

also spawned an immediate conflict over jurisdiction, as the new department also contained the General Land Office and patent and pension offices and was charged with the primary responsibility of overseeing the public domain. The transfer also touched off a long and bitter feud over the question of whether military or civilian officials should administer Indian affairs.

The government policy of aiding and abetting the removal of the Indian tribes to reservations in the West continued after this transfer. During the 1850s the responsibilities that developed from maintaining tribes within specific borders required the government to provide these Indians with food, clothing, shelter, and other supplies. The OIA had the responsibility of administering this aid, which put new burdens on the bureau. Its main goals were to educate Indian children, persuade Indian adults to farm, and compel Indians to remain on their reservations. The office faced chronic manpower and funding shortages, and agents and their staffs had to adapt to living and interacting with Indians daily. Partly due to these pressures, inefficiency and dishonesty grew within the bureau, and untrustworthy or inept Indian agents created chaos and hostility on some reservations. The commissioners of Indian affairs varied in their ability and success in managing these problems.

Reform

In 1867 Congress appointed a peace commission to study the problems of the OIA's administration of reservations. The commission recommended sweeping changes, including appointing honest and effective agents and establishing an independent agency for Indian affairs. Some improvements were made, but the recommendation to remove the OIA from the Interior Department was never followed. Pressure to return the commissioner's office to the War Department also failed.

When Ulysses S. Grant won the presidential election in 1868, he appointed Lieutenant Ely S. Parker as commissioner. Parker was the first Native American to serve as commissioner and the first appointed to a cabinet level position. As his first task as commissioner, Parker vowed to clear the office of the corrupt agents that had soured the relations between the United States and Native Americans. Parker told Jacob Cox, the secretary of the interior, that the only way to improve the status of Indians was to provide them with a proper liaison to help them redress grievances. Parker resolved to be that liaison, and he met with delegations representing Indian nations throughout the United States. He sought help

in supervising new agents from the Quakers and filled vacant posts with tried-and-true army officers from the Civil War (1861–1865). Through these methods, Parker improved the government's relations with many of the Indian nations.

In 1871 Congress passed the Indian Appropriations Act, which ended the federal government's policy of dealing with the Indian tribes by treaty. It stated all future Indian policies would be determined by congressional statute or executive order. This act endangered tribal autonomy and gave the government—including the commissioner of Indian affairs—even greater authority over Indians.

In the 1880s the commissioners of Indian affairs intensified the government's policies of assimilation and allotment toward Native Americans and increased the bureau's presence on reservations. In 1871 Congress passed an appropriation of \$100,000 for Indian education. By 1877 the OIA had begun to focus more on education and had established a system of Indian boarding schools. These schools attempted to force Native American children to acculturate to white society in the United States. The General Allotment Act (Dawes Act) of 1887, a congressional act authorizing the president to allot portions of certain reservation lands to individual Indians, also authorized the secretary of interior to negotiate with the tribes to purchase lands for non-Indian settlement. Allotment was designed to destroy Indian communal holdings, as its advocates believed that sharing property encouraged tribalism. The government's allotment program was also intended to open Indian lands to non-Indian purchase and settlement.

The commissioners of Indian affairs during this era oversaw the agents who were running the Indian schools, dispensing justice and distributing supplies on reservations, and assigning allotments and leasing contracts. The OIA also centralized its operations by requiring agents to report directly to the commissioner in Washington, D.C., and by 1900 the Indian agents working under the authority of the commissioner had effectively taken the place of many, if not most, tribal governments.

The commissioners carried the government's basic goals of assimilation and land allotment into the twentieth century, although some progressive and reform-minded holders of the office attempted to modify some of its harsher policies. Francis E. Leupp, who served from 1905–1909, and Robert G. Valentine, whose tenure lasted from 1909–1912, introduced reforms such as more substantial health services and more orderly systematic administration. Commissioner Cato Sells, who served from 1913–1921, viewed World War I

(1914–1918) as an opportunity to assimilate Indians by recruiting them to fight for the United States, and after the war a substantial number of Native American veterans were made citizens of the country. At the same time, the war required the government to sharply reduce services that the OIA had been providing, especially in the area of health and education.

John Collier

In the 1920s progressive reformer John Collier challenged the basic assimilation and land allotment policies of the OIA. Under pressure from Collier, the government undertook a thorough examination of U.S. policy towards the tribes. The *Meriam Report*, published in 1928, detailed very serious shortcomings in the government's provision of services to the reservations. Impressed with Collier's ideas, the Franklin D. Roosevelt administration appointed Collier as commissioner in 1933. Collier dramatically reformed the office during his tenure, which continued until 1945.

At Collier's recommendation, Congress responded to the *Meriam Report* by passing the Indian Reorganization Act (IRA) in 1934, which was intended to improve tribal economies and strengthen tribal governments by instituting autonomous corporate/public organizational structures for the tribes. The IRA also required the OIA, which had employed few Indians during its history, to provide Natives with preferential consideration when hiring. In the 1970s the U.S. Supreme Court heard a challenge to this requirement. A non-Indian who had not received a position with the Bureau of Indian Affairs (as the Office of Indian Affairs was then named) charged that the preference was unconstitutional because it allowed the bureau to discriminate on the basis of race. The Court ruled that the bureau's "Indian first" policy was proper because the government had a special political relationship to the tribes. As of early 2008, over 95 percent of the twelve thousand employees managed by the Indian office are Natives. The commissioner's office during Collier's tenure also moved to protect the culture of Native peoples, a rather dramatic transformation from the long line of previous commissioners who had attempted to stamp out Native culture and force individual Indians to assimilate.

From Commissioner of Indian Affairs to Assistant Secretary of the Interior

During World War II (1939–1945), the commissioner's office experienced many of the same problems it had suffered during World War I, including personnel shortages, disrupted

social services, and low morale. After the war, the scope of the OIA and the duties of its commissioner expanded to include forestry, range management, and land acquisition. In 1947 the office received an official name change, becoming the Bureau of Indian Affairs (BIA). Around this time conservative politicians began to repeatedly demand that the federal government "terminate" the Indian tribes, phase out the BIA, and assign its programs to other federal and state agencies. Dillon S. Myer, who served as commissioner from 1950–1953, established a Division of Programs to gradually withdraw some services from reservations. The Republican Congress of this period enacted legislation that created a process for terminating the existence of tribal governments. The commissioners were also directed to institute programs to relocate individual Indians to urban areas and place them in industrial jobs. The commissioner's office was expected, in other words, to prepare the tribes for their eventual extinction and the final assimilation of individual Indians into greater American society.

The termination program was a short-lived disaster, and in the 1960s, at the instigation of the Red Power movement, the federal government shifted the emphasis of the BIA toward the principle of self-determination. Self-determination not only reversed the termination decisions for several tribes, it also spawned a renewed respect for Native culture and tribal political autonomy. Programs inspired by the idea that the tribes ought to determine their own destinies allowed tribal leaders to apply to federal agencies for grants and administer programs themselves. Congress also passed a series of laws that aimed to improve the quality of reservation life without destroying tribal governments. These developments, and the creation of new programs during the Lyndon B. Johnson and Richard Nixon administrations, ended the bureau's monopoly on funding for tribal programs and enabled Indian tribes to develop ties with a number of federal agencies.

In 1975 Congress authorized the American Indian Policy Review Commission, headed and staffed by Indians and composed of eleven task forces, to investigate the BIA. The commission's final report recommended even greater recognition of tribal sovereignty. Morris Thompson, a Tanana Alaska native and the youngest and last commissioner of Indian affairs to serve under that title, symbolized the changes in the BIA and Indian economic independence. Born, raised, and later buried in the village of Tanana, Alaska, Morris held leadership positions in the Alaska Federation of Natives and Commonwealth North and served in a cabinet

position in the administration of Governor Walter Hickel before taking on the position of commissioner. In 1977 Congress fulfilled another of the American Policy Review Commission's recommendations when it elevated the commissioner's office to assistant secretary of interior and awarded the BIA a stronger voice in policy decisions.

By the late twentieth century, tribes were self-governing bodies and the BIA had pledged to protect and enhance tribal resources, rights, and self government. As a consequence of the government's movement toward tribal self-determination, the responsibilities of the commissioner (now assistant secretary) have evolved from a managerial or administrative nature to one of a more advisory capacity. The BIA is also trying to atone for past errors. In 2000 Kevin Gover, a Pawnee attorney and assistant secretary of the interior for Indian affairs, issued a formal apology for the errors of mismanagement and neglect over the bureau's long history.

See also *Allotment in Severalty; American Indian Policy Review Commission; Bureau of Indian Affairs; Calhoun, John C.; Civilization Program; Collier, John; General Allotment Act (Dawes Act) of 1887; Gover, Kevin; Indian New Deal; Indian Removal; Indian Reorganization Act of 1934; Leupp, Francis E.; McKenney, Thomas L.; Myer, Dillon S.; Parker, Ely S.; Reservations; Self-Determination; Sells, Cato; Termination and Restoration; Thompson, Morris; U.S. Indian Policy: Congress and the Executive, 1775–1803; U.S. Indian Policy: Congress and the Executive, 1803–1848; U.S. Indian Policy: Congress and the Executive, 1845–1877; U.S. Indian Policy: Congress and the Executive, 1871–1934; U.S. Indian Policy: Congress and the Executive, 1928–1946; U.S. Indian Policy: Congress and the Executive, 1944–1962; U.S. Indian Policy: Congress and the Executive, 1960–; War, U.S. Department of.*

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BIBLIOGRAPHY

- Armstrong, William H. *Warrior in Two Camps: Ely S. Parker, Union General and Seneca Chief*. Syracuse: Syracuse University Press, 1990.
- Kvasnicka, Robert M., and Herman J. Viola. *The Commissioners of Indian Affairs, 1824–1877*. Lincoln: University of Nebraska Press, 1979.
- McKenney, Thomas L. *Memoirs, Official and Personal: Thomas L. McKenney*. Lincoln: University of Nebraska Press, 1973.
- Philip, Kenneth R. *John Collier's Crusade for Indian Reform: 1920–1954*. Tucson: University of Arizona Press, 1977.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Schmeckebier, Laurence F. *The Office of Indian Affairs: Its History, Activities, and Organization*. Baltimore: Johns Hopkins University Press, 1927.
- Viola, Herman J. *Thomas L. McKenney: Architect of America's Early Indian Policy: 1816–1830*. Chicago: The Swallow Press Inc., Sage Books, 1974.

Commission on the Rights, Liberties, and Responsibilities of the American Indian

The Fund for the Republic, a nonprofit corporation focused on civil liberties, established the Commission on the Rights, Liberties, and Responsibilities of the American Indian as an independent research organization in 1957. The commission was charged with investigating the legal status of American Indians and assessing their assimilation into the American mainstream. The commission membership was small and composed of top leaders in government, media, and university circles. W. W. Keeler, principal chief of the Cherokee Nation, was the only Indian who served on the commission.

The commission was critical of Congress's termination program, which was designed to end federal support to the tribes in preparation for their assimilation. In their 1961 report, *A Program For Indian Citizens*, the commission members expressed their belief that termination was inevitable for Indians but that it should happen only once they were socially and economically assimilated into American society. To this end, the commission called upon the federal government to provide more job-skills training to reservation residents and greater assistance in finding urban employment. The commission also recommended that government programs obtain more tribal consent, that tribal governments extend full civil rights to their members, that the Bureau of Indian Affairs undergo organizational reform, and that Indians receive increased funding for health and education. In 1966 the commission published its final report, which was titled *The Indian: America's Unfinished Business*. Some Native leaders criticized the report for assuming that Indians would want to integrate and abandon their culture and traditions.

See also *Assimilation and Acculturation; Termination and Restoration.*

Sterling Fluharty

BIBLIOGRAPHY

- Brody, William A., and Sophie D Aberle, compilers. *The Indian: America's Unfinished Business: Report of the Commission on the Rights, Liberties, and Responsibilities of the American Indian*. Norman: University of Oklahoma Press, 1966.
- Commission on the Rights, Liberties, and Responsibilities of the American Indian. *A Program for Indian Citizens: A Summary Report*. Albuquerque, N.M.: 1961.

Compact of 1802

The Compact of 1802, also known as the Georgia Compact, was an agreement between the federal government of the United States and the state of Georgia in which Georgia ceded its western land claims in exchange for a federal guarantee of the state's sovereignty within its borders. The compact attempted to begin to resolve the controversial Yazoo land sales and provided the legal framework that would support the dispossession and removal of the Cherokee, Creek, Choctaw, and Chickasaw Indian nations in the decades to come.

The western lands claimed by the state of Georgia had been a subject of controversy since the close of the American Revolutionary War (1775–1783). Under its colonial-era, sea-to-sea charter, Georgia had claimed all the land included in the present-day state, as well the lands extending westward to the Mississippi River between the southern boundary of Tennessee to the north and the northern boundaries of East and West Florida to the south. These western lands were known as the “Yazoo lands” after a river that flowed through them. In December 1789 the Georgia legislature enacted legislation that awarded title to three private land speculation companies. It did so again in 1795, this time awarding title to four companies through an agreement called the Yazoo Act. The act was especially controversial since it was revealed after passage that nearly every Georgia legislator had an interest in one of the speculation companies. The law was repealed, but not until after many subsidiary titles had been sold. These complicated state land sales, in addition to the fact that these lands had also been under Spanish and British sovereignty at various points in the previous fifty years, made the question of who owned what lands within Georgia's vast claims enormously complex. Laws passed by Congress in 1798 and 1800 called for the appointment of commissioners to adjudicate and settle the situation. President Thomas Jefferson finally appointed James Madison, Albert Gallatin, and Levi Lincoln as federal commissioners in 1802 to negotiate a solution.

Working alongside commissioners appointed by the state of Georgia, Madison, Gallatin, and Lincoln brokered a compromise that secured Georgia's title to, and sovereignty within, its present-day borders. The remainder of its land claims (the present-day territory of Alabama and Mississippi, minus their panhandles) was ceded to the federal government. The first article of the Compact of 1802 outlined the terms of this cession. The United States would recognize the title to any lands in the ceded territory granted by the governments

of Spain or Great Britain prior to the Treaty of San Lorenzo (1795) and title granted by Georgia prior to 1785. The United States would pay Georgia \$250,000 for these lands. Settlers on these lands would be entitled to form a new state under the principles and parameters set down in the Northwest Ordinance (except that slavery would be allowed in this southern territory).

Most importantly in terms of Indian relations, the first article stated that the federal government would, via treaty, extinguish all of the Indian titles within the new boundaries of the state of Georgia as soon as they could be “peaceably obtained, and on reasonable terms.” The Cherokees and Creeks retained title to lands within Georgia’s modified boundaries. In ratifying the compact, the U.S. government was formally committed to the dispossession of these Indian nations. Pro-removal advocates in Georgia used the compact in the 1820s to pressure the federal government to relocate the Creeks and the Cherokees.

See also *Gallatin, Albert; Jefferson, Thomas; Madison, James; Removal.*

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BIBLIOGRAPHY

- Carter, Clarence E., ed. *Territorial Papers of the United States*. 28 vols. Washington, D.C.: U.S. Government Printing Office, 1934.
- Garrison, Tim Alan. “United States Indian Policy in Sectional Crisis: Georgia’s Exploitation of the Compact of 1802.” In *Congress and the Emergence of Sectionalism: From the Missouri Compromise to the Age of Jackson*, edited by Paul Finkelman and Donald R. Kennon, 97–124. Athens: Ohio University Press, 2008.
- Malone, Dumas. *Jefferson the President: First Term, 1801–1805*. Boston: Little, Brown and Co., 1970.

Comparative Indigenous Policies

Over the course of history, indigenous peoples have been subjected to policies of varying empires, states, and national powers that have transformed their lives. The nations that attempted to extend this dominion used a variety of means, including legislation, legal argument, and military force to seize lands of indigenous peoples, take their political autonomy, and try to eradicate or transform their culture. Only in the last few decades have these nations begun to reassess their past policies and recognize that indigenous peoples have rights to their lands and to their destinies.

When European imperial and colonial expansion began in the fifteenth century, the colonial governments and local

settlements established their own unique policies toward the Natives of the area. However, these were frequently limited in scope, and it was often not until former European colonies began to declare their own independence and create their own governments that universal and geographically encompassing policies toward indigenous peoples were devised.

Four modern nations are instructive for comparing policies toward their indigenous residents: the United States, Canada, Australia, and Brazil. Each one of these countries at some point followed several broad trends in policy making toward indigenous peoples, including isolating them as political entities, removing them from their lands, acculturating them and preparing them for assimilation into mainstream society, and, more recently, recognizing their sovereignty as communities and their right to self-determination. The chronological lengths, extent of enforcement, and official recognition of each of these policy trends varied from country to country.

United States

One noted historian of U.S. Indian policies, Francis Paul Prucha, has argued that those policies have consistently been motivated by paternalism and that the Native peoples in the nation have been harmed more by the failed implementation of well-intended ideas than by purposeful malice.

Article 1, section 8 of the U.S. Constitution empowered Congress to “regulate commerce . . . with the Indian tribes.” Known as the Indian Commerce Clause, this article made policy relations with indigenous tribes the exclusive province of federal law and jurisdiction. This power was augmented by exercise of presidential treaty-making authority under Article 2, section 2 of the Constitution. For much of the first century of U.S. history, these two articles formed the core of federal policy toward indigenous peoples, with treaties drawn and executed by the executive branch and legislation passed by Congress. Significantly, by signing treaties with indigenous groups and regulating trade and commerce with them, the U.S. effectively designated indigenous peoples as sovereign political entities.

After the ratification of the Constitution, the United States developed a “civilization” program designed to prepare Indians for assimilation into the majority society. The government provided tribes with tools and other implements in an effort to teach them how to live and farm like white Americans. The architects of this policy, President George Washington and Henry Knox, his secretary of war,

believed that acculturated Indians would need less land for hunting and thus be inclined to cede excess territory to the United States. Gradually, they theorized, white Americans would surround and assimilate Native communities. However, while perhaps honorable in intent, the plan failed. The sovereign status of the tribes was rarely respected by American citizens during the United States' early history, and funds sufficient to provide military forces necessary to protect the tribes from the trespasses of settlers were never appropriated by Congress. The policy also failed to take into account the fact that most Natives had little interest in assimilating and that white Americans were generally reluctant to accept Indians into their communities.

Consequently, a shift in federal policy occurred, and in 1830 Congress passed the Indian Removal Act. The act provided the president with the authority to negotiate treaties with Indian tribes in which they would surrender their territories in the east for new lands west of the Mississippi River. During this period, and even after their removal, the United States continued to treat indigenous peoples as sovereign political entities. In *Cherokee v. Georgia* (1831), the U.S. Supreme Court ruled that indigenous communities were "domestic dependent nations" that retained a large measure of control over internal matters and were separated territorially and politically from the United States. The Court offered even stronger language in support of tribal autonomy in *Worcester v. Georgia* (1832).

In the 1840s, as the American population expanded further into the West, the United States began isolating Indian tribes onto reservations. At the same time, it continued to provide limited funds to prepare Native people for assimilation into the majority society. Tribes reluctant to move to reservations often found themselves facing the U.S. military. Between the removal era and the Wounded Knee massacre in 1890, the United States fought and won dozens of wars against Native nations in the West and isolated them onto reservations.

In 1871 the government ended its policy of recognizing the sovereignty of the tribes and dealing with them through treaties. The General Allotment Act of February 8, 1887, marked yet another comparative shift in general federal policy. Also called the Dawes Severalty Act, this act authorized the breaking up of reservation lands into smaller parcels that were then allotted to individual Indians. The expectation was that private property ownership would dissolve tribal ties and prepare Indians for assimilation into American society. The consequence of this act was that many Indians sold their

allotments, and once isolated reservation lands were opened up to non-Native settlers, the Indian nations in the West suffered a devastating loss of land.

At the same time that it was imposing allotment on the tribes, the United States was increasing support for educational programs. Boarding schools away from reservations, designed on a military model, were adopted by the government as a way to isolate Indian children from their tribal culture, instill in them patriotic respect for the United States, and prepare the boys for a trade and the girls for the same domestic responsibilities practiced by white American women.

The process of encouraging indigenous peoples to assimilate into the larger U.S. society lasted for nearly fifty years, until the Indian Reorganization Act (IRA) of June 18, 1934. Intended to reverse the General Allotment Act's policy of weakening, if not wholly destroying, the status of indigenous tribes as sovereign self-governing entities, the IRA ended the allotment of reservation lands. In addition, the secretary of the interior was authorized to restore to tribal ownership any remaining surplus reservation lands except those located within a federal reclamation project and to reacquire "through purchase, relinquishment, gift, exchange or assignment" interests in real property within or without reservations for the purpose of providing land for indigenous tribes. Indigenous tribes were also given the power to adopt constitutions and bylaws that would become effective upon ratification by membership vote and approval by the secretary. The law was intended to enable tribes to exercise the powers of municipal governments, including buying, selling, and leasing property and establishing tribal businesses.

Issues quickly arose, however, with regard to the constitutions to be drawn up by Natives. The Office of Indian Affairs (OIA) pressured tribes to accept standard models that it generated, which did not take into account traditional Native methods of governance. A total of 258 elections were conducted, with 181 tribes opting for, and 77 opting against, the adoption of constitutional governments.

The OIA, led by Commissioner of Indian Affairs John Collier, moved to recognize the value of Native culture and protect it from dishonest non-Indians. The organization also encouraged Native schools to integrate tribal knowledge and history into their curricula. However, despite the government's stated goal of helping to restore indigenous tribal self-determination, it did not sustain this so-called Indian New Deal.

In 1946 Congress began to pass legislation that called for a reversal of the self-government policy and an end to the

trust relationship between federal and tribal governments. Over fifty tribes were terminated during this period. In 1953 Public Law 280 was enacted, which gave several states jurisdiction over indigenous tribal territory. The federal government also initiated an urban relocation program, in which reservation residents were transferred to cities and provided with job training and employment. The termination program was very unpopular among most Indians. Groups such as the National Congress of American Indians emerged to challenge the policy, and by the late 1950s the country began moving slowly toward abandoning it.

In the 1960s Native activism against termination, for better living conditions, and for the restoration of sovereignty forced the United States to finally move toward a policy of recognizing the tribal right to self-determination and to a restoration of tribal sovereignty. Generally speaking, this policy continues in the early twenty-first century. Indigenous tribes in the United States are enabled to maintain their own governments, courts, and jurisdictions and negotiate their own contracts for health, education, and welfare. Two important federal acts supporting Indian self-determination are the Indian Self-Determination and Education Assistance Act of 1975 and the Indian Child Welfare Act of 1978. Other laws, such as the American Indian Religious Freedom Act (AIRFA) of 1978 and the Native American Graves Protection and Repatriation Act (NAGPRA) of 1990, have given indigenous peoples broader rights to religious freedom and cultural patrimony. The Indian Gaming Regulatory Act (1988) provided some tribes with the means—legal gambling and casino operations—to revitalize their economies. Compared to earlier programs that were aimed at either isolating and removing indigenous tribes or acculturating and assimilating them, the current trend reflects a more enlightened, just federal policy.

Canada

Canada followed many of these same general trends as the United States when dealing with its indigenous First Nations peoples. Canada, however, did not rely heavily on the removal of indigenous peoples from their traditional lands. Nor has it fully recognized the First Nations peoples' self-determining rights and sovereign status.

From the late 1600s to the mid-1800s, the general policy of the French and British colonial governments toward the indigenous peoples of present-day Canada was one based largely on commercial alliances. For example, in 1670 a royal charter granted by the British monarchy gave the Hudson's

Bay Company the power to enact any laws and regulations deemed necessary to govern relations with the indigenous peoples. This policy served to economically and socially limit the indigenous peoples' role in the growing colonial society, as the Hudson's Bay Company was given sole jurisdiction to trade and conduct commerce with them. During this time no treaties were signed and it is unclear whether indigenous land rights were affirmed or extinguished.

In 1763 the British colonial government passed the Royal Proclamation. The proclamation continued the previous policy trend, declaring that only the Crown could extinguish indigenous land title, with the consent of indigenous leaders. It further created an indigenous territory in those areas west of British and French colonial settlements. This trend continued for the next one hundred years, as reflected in the 1829 Act to Better Protect the Mississauga Tribes, Living on the Indian Reserve of the River Credit. This act attempted to protect the tribes' lands from trespass and sale and to continue to keep them economically and socially isolated from the developing Canadian society.

Between 1871 and 1877, the newly formed Canadian government entered into a series of seven treaties that were denominated by a number rather than the place of signing, as was the norm in the United States. These treaties were initiated largely at the insistence of the indigenous peoples themselves in an effort to gain protection from the growing intrusion of nonindigenous populations. At the same time Canada was establishing treaties with these groups, it also was moving to dissolve any official recognition given to them through legislation such as the Indian Act of 1876, which worked to take away the rights of indigenous peoples and to encourage their acculturation into the Canadian society. The act defined who was considered an Indian and prohibited First Nations peoples from governing themselves, owning land, or managing their own trade. Under the law, individuals were not allowed to use alcohol or leave their reserve without permission from the government. The act also provided an agent appointed by the Department of Indian Affairs to oversee and veto any act by a reserve council.

The law encouraged acculturation and assimilation by providing that an individual could acquire Canadian citizenship (and abandon their First Nations identity) when they satisfied certain government standards. Canada largely maintained its acculturation and assimilation policies until the late twentieth century. Not until the passage of the Constitution Act of 1982 did the nation officially recognize and affirm "the existing aboriginal and treaty rights of the aboriginal

peoples of Canada.” This was the first policy step by Canada to embrace the current trend of recognizing indigenous peoples’ rights of self-determination.

The act was followed by the *Aboriginal Self-Government Federal Policy Guide* of 1995, which recognized that indigenous peoples possessed an inherent right to self-government. However, unlike in the United States, where indigenous people are recognized as sovereign nations (although with a dependent status), in Canada indigenous peoples do not have a right to sovereignty in the international or political sense and are not considered independent indigenous nations. Rather, they are considered to be similar to Canadian provinces, with the ability to form local governments that remain under the jurisdiction of the federal government.

Canada’s first indigenous self-government agreement was signed on April 27, 1999, in the state of British Columbia with the Nisga’a First Nation. The agreement allows for self-determining powers and some level of sovereignty, but the Canadian government still controls commercial relations and natural resource management decisions.

Australia

In Australia, policies directed toward indigenous peoples date back to arrival of the British in 1788. The indigenous peoples were never recognized to be independent with rights of self-determination and to their lands, a failure that has only recently begun to be reversed.

When the British colonized Australia, they considered it a *terra nullius* (“empty land,” in Latin). This doctrine gave legal force to the claiming and settling of lands occupied by indigenous people, where it was argued that no system of laws or individual ownership of property existed. As such, treaties with the indigenous peoples were never entered into and land rights were never recognized or reserved. To some extent, the doctrine became a self-fulfilling prophecy, as colonization of the island resulted in a severe decline in the indigenous population due to epidemic diseases, the loss of fertile lands, consequent malnutrition and starvation, and, in some cases, intentional efforts to hunt down and kill Indigenous Australians.

In 1835 Richard Bourke, governor of the colony of New South Wales, proclaimed that indigenous peoples could not sell or assign land, nor could an individual person acquire it, other than through the Crown. The proclamation did not acknowledge indigenous peoples’ rights to their land and isolated them from the growing Australian economy and society. Because they were considered—wrongly—to have

no system of law, they were considered to be under the jurisdiction of the Crown. The policy was affirmed in the 1889 case of *Cooper v. Stuart*, in which the judicial committee held that since the land did not have an “established system of law” prior to British colonialism, it was *terra nullius*. Therefore, the British colonial government was not required to purchase the land from the Indigenous Australians; it simply could obtain lawful title by possessing and occupying the land. This practice continued into the twentieth century. The government did establish several reserves for Indigenous Australians, including Queensland in 1897, Western Australia in 1905, New South Wales in 1909, and South Australia in 1911.

Beginning in the early twentieth century, Australia shifted its policy toward acculturation and assimilation. Officially adopted by the Australian government and the Territory Aboriginal Affairs authorities in 1937, this trend toward acculturation and assimilation was initially modeled on programs in the United States and Canada. Two years later, in 1939, John McEwen, minister of the interior, announced his own “New Deal” to assimilate the indigenous peoples of Australia. Australian politicians and indigenous people exhibited strong opposition to this new policy, however, and parliament failed to adopt the New Deal referendum. Nevertheless, piecemeal acculturation and assimilation attempts continued for the next thirty years.

In 1971 the Supreme Court of the Northern Territory of Australia ruled in the landmark case of *Milirrpum v. Nabalco Pty Ltd.* (also known as the Groves Land Rights Case) that any land rights that Indigenous Australians might have held were extinguished in 1788 with the arrival of the first English colonists. However, the court held that these rights were not extinguished because of *terra nullius*, as previously argued, but simply because such rights had never been sanctioned by the British and were thus not part of Australian law.

The Indigenous Australians involved, the Yolngu, lost their attempt to reoccupy their traditional land, leased from the Australian government by Nabalco Pty Ltd. for mining purposes. The Groves Land Rights case was a landmark decision for indigenous rights because for the first time an Australian higher court acknowledged the existence of an indigenous system of law, though it stated that land title was not a part of that law. The case also recognized the validity of the use of oral evidence to establish indigenous property rights, a vital precondition for a successful land rights case. The case led to the establishment of the Woodward

Commission and the eventual recognition of indigenous land rights in the Northern Territory. On December 9, 1976, the Aboriginal Land Rights (Northern Territory) Act was passed, officially recognizing Australia's shift in policy. Under the act, four land councils were established in which indigenous people in the Northern Territory of Australia could, for the first time, claim rights to land based on traditional occupation.

Building on this policy trend, the Council for Aboriginal Reconciliation was established in 1991 to improve relations with the Indigenous Australians. Given a ten-year lifespan, which ended on December 31, 2000, the council focused on several key goals, one of which was the issue of "documents of reconciliation," which were designed to acknowledge the rights of the Indigenous Australians in the Australian constitution and to bring about a formal national reconciliation with them.

On June 3, 1992, the High Court of Australia decided *Mabo v. Queensland (No. 2)*, which rejected the declaration of *terra nullius* and recognized a form of indigenous title. The Native Title Act of 1993 followed in the legislature, providing for determinations of indigenous title in Australia. It also provided the foundation for the creation of the Native Title Tribunal and the Indigenous Land Fund, created to settle land claims and enable the indigenous peoples of Australia to develop self-determining mechanisms.

In January 2001 the Council for Aboriginal Reconciliation was replaced with a new private body, called Reconciliation Australia. The establishment of this institution resulted in a reversal of the trend toward granting indigenous people complete sovereign status to a policy more like Canada's, in which indigenous peoples have some self-determining abilities but are still under the control of the federal government in terms of economic and commercial development.

On February 13, 2008, Prime Minister Kevin Rudd offered a national apology to the Indigenous Australians for its "Stolen Generation" policy, in which the government from 1869 to 1969 seized children from their parents, supposedly for their protection, and placed them with church missions and state institutions and camps.

Brazil

Although it has implemented some policies similar to those of the other nations discussed, Brazil remains a long way from granting self-determining rights to indigenous peoples or recognizing their sovereignty.

The first general policies toward indigenous peoples in Brazil date back to the initial colonial period and reflect a broad trend toward isolating them from the larger social and political development of the country. King Sebastian I (1557–1578) of Portugal declared in 1570 that the indigenous peoples of colonial Brazil should not be used for slavery and ordered the release of those held in captivity. Furthermore, he favored and rewarded indigenous people who helped fight against the French, such as Araribóia, chief of the Teriminós, who was given lands near the Bay of Guanabara. It was not until 1755 that the slavery of indigenous peoples in Brazil was finally abolished. The Portuguese monarchy, however, did not recognize indigenous peoples' rights and worked to keep them separate from the growing colonial population, although a fair amount of intermarriage occurred between the colonists and the Natives along the coast.

In the seventeenth and eighteenth centuries, the *Bandeirantes*—Brazilian colonial scouts who took part in exploration expeditions (*Bandeiras*)—expanded Brazil from the small limits of its initial colonial area to roughly the same territory found in present-day Brazil. While these *Bandeirantes* were pushing further inland looking for indigenous peoples to enslave, a strong mission system was also established in Brazil. Carmelites, Franciscans, Mercedarians, Jesuits, and other missionaries worked to acculturate various groups of indigenous peoples, mostly in the region's interior. Some missions did not seek to make the indigenous peoples adopt a European way of life, only the Christian religion, while others worked toward a more comprehensive acculturation policy. Under the mission system, leadership of the indigenous peoples achieved a high degree of autonomy within the colonial empire, and with the use of indigenous labor many missions became economically successful.

It was not until the beginning of the twentieth century that Brazil as a country officially established a specific policy toward indigenous peoples. Largely due to the efforts of Cândido Rondon, a military officer of both Portuguese and indigenous Bororo ancestry, the *Serviço de Proteção aos Índios* (Indian Protection Service—SPI), was created in 1910. The SPI was the first federal agency charged with protecting indigenous peoples and preserving their culture.

By the mid-twentieth century, as the Brazilian population continued to grow and expand beyond the coastal areas, a new policy direction was needed in order to deal with the growing number of conflicts arising between indigenous and nonindigenous peoples. Following the same pattern as the United States, Canada, and Australia, the Brazilian govern-

ment moved to begin establishing policies aimed at acculturating and assimilating indigenous peoples into the larger Brazilian society. For example, President Getúlio Vargas's authoritarian *Estado Novo* ("New State"), inaugurated in 1937 and lasting until the end of World War II (1939–1945), attempted to promote the industrialization of Brazil and the national integration of outlying regions far from the coastal concentration of the country's population. This New State regime encouraged acculturation and assimilation of indigenous peoples by opening up formerly isolated areas within the interior to nonindigenous settlers. However, conflicting interests of missionaries and homesteaders, along with fierce resistance from the Xavante indigenous peoples, thwarted these plans. In the process, those favoring the assimilation of the indigenous population clashed with those defending the isolation and protection of indigenous groups. Despite the latter's efforts, fixed settlements, increased nonindigenous encroachment, and paternal governmental assistance were forces that sometimes led to the acculturation of indigenous peoples.

In 1952 the first Brazilian indigenous reserve, Xingu National Park, was established in the state of Mato Grosso, marking a shift away from the New State acculturation policy toward one of recognizing the sovereignty of indigenous peoples. In 1967 the government of Brazil disbanded the SPI after it was discovered that agency officials failed to protect indigenous peoples' lands and, in collaboration with land speculators, systematically slaughtered Natives by intentionally circulating disease-laced clothes amongst them.

The Brazilian government established Fundação Nacional do Índio (FUNAI) in 1967 to replace the SPI. The new organization continued the Brazilian policy trend of moving away from isolating or acculturating indigenous peoples toward establishing their self-determination rights. FUNAI is headquartered in Brasília and is organized under the Ministry of Justice. It is responsible for handling all issues regarding the country's indigenous peoples.

Despite these positive changes, it was not until 1988, with the establishment of the Brazilian constitution, that the recognition of indigenous peoples' sovereign status became official. Article 231 of the constitution recognizes the "original" right of indigenous peoples to their traditional territories and defines this right as taking precedence over all other rights, including those of the state itself. It specifically guarantees the rights of indigenous peoples to the use of the territories they have traditionally occupied, and further states that, "All acts having as their purpose the occupation, own-

ership or possession of [indigenous land] are nullified and extinct, without legal force."

In 1991 Decree 22 was established, which proclaimed the primacy of indigenous peoples' rights over competing interests. Signed by President Fernando Collor de Mello, the decree insured that title to indigenous land would be based on aboriginal habitation alone, and parties with secondary title would be compensated for their losses. In addition, the Brazilian government adopted a timetable that these territories be demarcated by October 5, 1993. However, as of 2007, Brazil had granted only 210 indigenous land titles out of 554 acknowledged claims.

On January 8, 1996, President Fernando Henrique Cardoso signed Presidential Decree 1775, granting squatters, miners, ranchers, and state and local governments new and unprecedented power to challenge the boundaries of indigenous reserves. This decree marked a radical shift in Brazil's policies toward indigenous peoples, replacing the previous Decree 22, under which more than half of the indigenous reserves thus far legally recognized in Brazil were officially demarcated. Because of its effectiveness as a formula for the creation of indigenous reserves, Decree 22 had become the object of an intense repeal campaign by business and development interests, especially in Brazil's northern states, where most of the large reserves are located.

Presidential Decree 1775 potentially affects some 344 out of the 554 designated indigenous reserves. The decree gives all parties (private and public) who wish to contest the boundaries of any indigenous reserve created under Decree 22, and that has not yet been registered in a title registry office a period of ninety days, to submit complaints to the Minister of Justice. The minister will then have an additional thirty days to study the merits of the complaint and announce his decision. Finally, the president will have a further thirty days to confirm or reject the minister's recommendation. As of 2007 no new indigenous area had been identified or demarcated since the implementation of Decree 1775.

Current Brazilian policies toward indigenous peoples continue to fluctuate. Unlike in the United States, Canada, and Australia, the indigenous peoples of Brazil continue to struggle to gain basic self-determination rights. Although some reserves have been established that protect indigenous peoples, these reserves lack sovereign status and are continually under the threat of encroachment by loggers, farmers, and settlers. Additionally, the Brazilian government continues to be under pressure to develop and exploit resources on lands inhabited by indigenous peoples.

Conclusion

Policies toward indigenous peoples are still unfolding in many countries. Mechanisms for self-determination and sovereignty are contentious and difficult to establish. Some countries have been able to enact laws that enable indigenous peoples to realize many of their self-determination rights, while others are still in the beginning stages of recognizing indigenous peoples at all. The United States, Canada, Australia, and Brazil serve as informative comparative examples, as each has moved from policy trends favoring removal or isolation of indigenous people to policies encouraging acculturation and assimilation. Most recently, each of these countries has taken steps toward granting indigenous people self-determining rights and recognizing them as sovereign people—steps that are likely to continue in the upcoming years.

See also *Acculturation and Assimilation*; *American Indian Religious Freedom Act*; *Bureau of Indian Affairs*; *Canada, Indian Policy of*; *Cherokee Nation v. Georgia*; *Civilization Program*; *Collier, John*; *Education: Boarding Schools*; *France, Indian Policy of*; *General Allotment Act (Dawes Act) of 1887*; *Great Britain, Indian Policy of*; *Indian Child Welfare Act*; *Indian Commerce Clause*; *Indian Gaming Regulatory Act of 1988*; *Indian New Deal*; *Indian Removal Act of 1830*; *Indian Reorganization Act of 1934*; *Indian Self-Determination and Education Assistance Act of 1975*; *Knox, Henry*; *Mexico, Indian Policy of*; *National Congress of American Indians*; *Native American Graves Protection and Repatriation Act of 1990*; *Netherlands, Indian Policy of*; *Proclamation of 1763*; *Prucha, Francis Paul*; *Relocation Program*; *Removal*; *Russia, Indian Policy of*; *Self-Determination*; *Sovereignty*; *Spain, Indian Policy of*; *Sweden, Indian Policy of*; *Termination and Restoration*; *Terra Nullius*; *U.S. Indian Policy: Congress and the Executive, 1775–1803*; *U.S. Indian Policy: Congress and the Executive, 1803–1848*; *U.S. Indian Policy: Congress and the Executive, 1845–1877*; *U.S. Indian Policy: Congress and the Executive, 1871–1934*; *U.S. Indian Policy: Congress and the Executive, 1928–1946*; *U.S. Indian Policy: Congress and the Executive, 1944–1962*; *U.S. Indian Policy: Congress and the Executive, 1960–*; *Washington, George*; *Worcester v. Georgia*; *Wounded Knee Massacre (1890)*.

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BIBLIOGRAPHY

- Bernholz, Charles D. "The Absent American Indian Treaties: A Guide to Treaties Never Referenced at the Federal Court Level." *Journal of Government Information*, vol. 28 (2001): 171–178.
- Clark, Blue. *Lone Wolf v. Hitchcock: Treaty Rights and Indian Law at the End of the Nineteenth Century*. Lincoln: University of Nebraska Press, 1994.
- Department of Indian Affairs and Northern Development Canada. *Aboriginal Self-Government Federal Policy Guide: The Government of Canada's Approach to Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government*. Ottawa, Canada: Minister of Public Works and Government Services, 1995.
- Duthu, N. Bruce. *American Indians and the Law*. New York: Viking, 2008.
- Francis Paul Prucha. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Hazlehurst, Kayleen M., ed. *Legal Pluralism and the Colonial Legacy: Indigenous Experiences of Justice in Canada, Australia, and New Zealand*. Brookfield, Vt.: Ashgate Publishing Company, 1995.
- Moore, Sara Gavney, and Maria Carmen Lemos. "Indigenous Policy in Brazil: The Development of Decree 1775 and the Proposed Raposa/Serra do Sol Reserve, Roraima, Brazil." *Human Rights Quarterly*, vol. 21 (1999): 444–463.
- Peterson, Nicolas, and Will Sanders, eds. *Citizenship and Indigenous Australians: Changing Conceptions and Possibilities*. Cambridge, United Kingdom: Cambridge University Press, 1998.
- Russell, Peter H. *Recognizing Aboriginal Title: The Mabo Case and Indigenous Resistance to English-Settler Colonialism*. Toronto, Canada: University of Toronto Press, 2005.
- Satz, Ronald N. *American Indian Policy in the Jacksonian Era*. Norman: University of Oklahoma Press, 2002.
- Stidham, Ronald, and Robert A. Carp. "Indian Rights and Law before the Federal District Courts." *The Social Science Journal*, vol. 32 (1995): 87–100.
- Stremlau, Rose. "'To Domesticate and Civilize Wild Indians': Allotment and the Campaign to Reform Indian Families, 1875–1887." *Journal of Family History*, vol. 30 (2005): 265–286.
- Wilkins, David E. "Transformations in Supreme Court Thought: The Irresistible Force (Federal Indian Law & Policy) Meets the Movable Object (American Indian Tribal Status)." *The Social Science Journal*, vol. 30 (1993): 181–207.
- Wilkins, David E., and K. Tsianina Lomawaima. *Uneven Ground: American Indian Sovereignty and Federal Law*. Norman: University of Oklahoma Press, 2001.
- Wunder, John R. *"Retained by the People": A History of American Indians and the Bill of Rights*. Oxford: Oxford University Press, 1994.
- , ed. *Constitutionalism and Native Americans, 1903–1968*. New York: Garland Publishers, 1996.

Confederate States of America

Various Native tribes lived within or in close proximity to the Confederate States of America (C.S.A.) during its existence from 1861 to 1865. The most numerous and powerful of these nations resided in the Indian Territory, present-day Oklahoma, a critical location to the west of Confederate Arkansas and to the north of Confederate Texas. The largest group was referred to at that time as the Five Civilized Tribes and included the Cherokees, Creeks, Choctaws, Chickasaws, and Seminoles, all of whom had recently been forcibly removed from the Southeast to accommodate white southerners' demands for land.

The Confederacy did not want hostile Indian groups on its border and in March 1861 created its own Bureau of Indian Affairs under the War Department. President Jefferson

Davis appointed David Hubbard as commissioner of Indian affairs. Within a few months, Hubbard, prominent Arkansas lawyer Albert Pike, and Brigadier General Benjamin McCulloch received official missions to Indian Territory. Pike achieved a formal alliance with the Cherokee, Creek, Choctaw, Chickasaw, and Seminole nations in November 1861, as well as an agreement with the more nomadic tribes to the west.

This alliance broke new ground in U.S. Indian policy by offering Native nations non-voting representation in the Confederate Congress. The U.S. government had included offers to let the Cherokees send a deputy to Congress in the treaties of Hopewell (1785) and New Echota (1835), but it had never admitted an Indian representative into that body. This accommodation was, therefore, an important step forward for Native people. Two Native delegates did take their seats in Richmond, the first and last time Native nations had specific representation in a national congress.

Part of the C.S.A.'s diplomatic policy with Natives focused on preventing them from taking up arms against the Confederacy by making them allies. The other aspect was convincing the Indians to actually fight *with* the southerners in their quest for independence. While both sides in the conflict generally insisted that this was a "white man's war," the Confederacy enlisted the military assistance of Indians before the United States, which represented another political first. In recruiting, Confederates hoped their mutual interests as slaveholders would overcome Indian leaders' displeasure over the recent trauma of Removal, for which they blamed southerners. The Confederacy accepted units filled entirely by men from the Cherokee, Creek, Choctaw, Chickasaw, and Seminole nations. Surprisingly, the C.S.A. allowed the Indian men to pick their own officers. This created the opportunity for a prominent Cherokee man named Stand Watie to become a brigadier general in the Confederate army, the highest ranking Native American in the war. Native troops, however, tended to be poorly trained, inadequately supplied, and were often not respected by higher-ranking officers. Also, early in the war the C.S.A. broke a treaty agreement not to take Native troops out of their nations without their consent when it required them to march to the Battle of Pea Ridge (1862) in Arkansas. Indian troops resisted such poor treatment and tried to keep their tribal interests at the forefront. As the C.S.A.'s war effort began to fail and focus shifted to the east, the C.S.A. lost interest in its Native allies and left them to deal with the victorious Union on their own.

See also *Civil War (1861–1865)*.

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BIBLIOGRAPHY

- Abel, Annie Heloise. *The American Indian as Slaveholder and Secessionist*. 1915. Reprint, Lincoln: University of Nebraska Press, 1992.
- Brown, Walter Lee. *A Life of Albert Pike*. Fayetteville: University of Arkansas Press, 1997.
- Confer, Clarissa W. *The Cherokee in the Civil War*. Norman: University of Oklahoma Press, 2007.
- Gaines, W. Craig. *The Confederate Cherokees: John Drew's Regiment of Mounted Rifles*. Baton Rouge: Louisiana State University Press, 2001.
- Hattaway, Herman and Richard E. Beringer. *Jefferson Davis, Confederate President*. Lawrence: University of Kansas Press, 2002.
- Wilson, T. Paul. "Delegates of the Five Civilized Tribes to the Confederate Congress," *Chronicles of Oklahoma*, vol. 53 (1975): 353–66.

Congress, Native Americans in the U.S.

While Congress has considered legislation affecting Native Americans since its inception in 1789, at least nine senators or representatives have claimed to be full or part American Indian. Among these politicians, three served in the U.S. Senate. One Indian senator, Charles Curtis (R-Kans.), was the vice president under Herbert Hoover. Other prominent Native American congressional members have included Senator Robert Owen (D-Okla.), Representative Benjamin Reifel (R-S.D.), and Ben Nighthorse Campbell (R-Colo.). Despite their small number, Native American members of Congress have had a unique ability to influence the bills considered before the congressional Indian affairs committees.

Born to a part Kaw mother and an Anglo father in North Topeka, Kansas, Charles Curtis (1860–1936) was the first known Indian in Congress. As a child, he lived for three years with his maternal grandmother on the Kaw Indian reservation in central Kansas. After returning to Topeka, he became Shawnee County's prosecuting attorney. In 1892 Curtis won election to the House of Representatives as a Kansas Republican. Rather than hide his ethnic background, he decorated his Capitol Hill office with Native American artifacts. He promoted the allotment of reservation land as a means to improve the living conditions of Indians and, in 1898, sponsored the Curtis Act, which abolished tribal legal systems and led to the dissolution of the Five Tribes within the Indian Territory. Curtis chaired the House Indian Affairs Committee from 1903–1907, prior to his election to the Senate in 1907. As a senator, he chaired the Senate Indian

Affairs Committee from 1919–1921 and became the Senate's first official majority leader in 1925. Three years later, he accepted his party's nomination for vice president, serving one term in office.

Robert Latham Owen (1856–1947), part Cherokee, worked as a federal Indian agent, a banker, and a lawyer, defending Choctaws and Cherokees. In 1901 he drafted the act that gave citizenship to every Indian in Indian Territory, and after Oklahoma became a state in 1907, he was elected to the Senate as a Democrat. Prior to his retirement in 1925, he chaired two select Indian committees and founded the Committee on Banking and Currency, serving as its chair from 1913–1918. In that position, he cowrote the Federal Reserve Act of 1913 and sponsored major legislation regulating farm loans and child labor.

From 1917–1952 at least three Indian representatives served from Oklahoma: Republican Thomas Chandler (1871–1953) and Democrats John Nichols (1896–1945) and William Stigler (1891–1952). Chandler, a Cherokee, was a businessman, a tribal tax collector, and a town commissioner before serving two terms in the House (1917–1919; 1921–1923), where he was a member of the Indian Affairs Committee. Nichols, an Indian of unspecified lineage, served from 1935–1943. A specialist in Indian affairs and aviation, he resigned from Congress to become a vice president of Transcontinental and Western Air (TWA). Stigler, of Choctaw descent, practiced law and served in the state senate prior to replacing Nichols in the House. He defended Indian treaty obligations and promoted the sale of coal and asphalt lands on reservations.

Representative Benjamin Reifel (1906–1990) was born on the Rosebud Indian reservation in Parmelee, South Dakota, to a Lakota Sioux mother and a German American father. Prior to entering the House in 1961, he spent nearly thirty years in the Office of Indian Affairs, and its successor, the Bureau of Indian Affairs (BIA), working as a field agent, a tribal government organizer, and eventually supervisor of the Fort Berthold reservation in North Dakota. As a conservative Republican, he promoted farming interests, Indian education, and funding for the arts until his retirement from Congress in 1971.

Known for his signature ponytail and Harley Davidson motorcycle, Ben Nighthorse Campbell (1933–), of North Cheyenne descent, represented Colorado in the House of Representatives (1987–1993) and the Senate (1993–2005). Prior to entering Congress, he captained the U.S. judo team



Charles Curtis served as a Republican senator from Kansas before being appointed vice president under Herbert Hoover. Part Kaw, Curtis was the first known Indian in Congress.

at the 1964 Olympics, worked as a rancher and an award-winning Indian jewelry designer, and served in the Colorado state legislature. In the House, he focused on the management of natural resources, national parks, and the settlement of Indian claims. Elected to the Senate as a Democrat, Campbell switched to the Republican Party in 1995. The move awarded him seats on the Appropriations Committee and the Indian Affairs Committee, the latter of which he chaired from 1997–2004. He sponsored legislation commemorating the history and achievement of Native Americans, including the authorization of the National Museum of the American Indian (NMAI). Located on the National Mall in Washington, D.C., the NMAI exhibited Campbell's jewelry designs shortly after his retirement from the Senate in 2005.

The son of a BIA agent, Brad Carson (1967–) lived on several Indian reservations as a child. He was a Rhodes Scholar and a special assistant to the secretary of defense before entering the House in 2001 and serving two terms. An enrolled member of the Cherokee Nation, Carson

sought to improve living conditions for Native Americans, working families, and seniors residing in Oklahoma's Second Congressional District. In 2004 the moderate Democrat announced his resignation and launched an unsuccessful Senate campaign.

The most recent Indian to enter Congress is Representative Tom Cole (1949–), also from Oklahoma. A Republican Chickasaw, Cole taught history and politics at Oklahoma Baptist University, served in the state senate from 1988–1991, and was Oklahoma's secretary of state from 1995–1999. While secretary, he secured federal funds to rebuild Oklahoma City after the 1995 bombing of the Alfred P. Murrah Federal Building. Since entering the House in 2003, he has focused on issues concerning national defense, small businesses, education, and Native Americans. Like the Indians who preceded him, Cole has an insider's ability to influence legislation affecting Native Americans.

See also *Bureau of Indian Affairs*; *Campbell, Ben Nighthorse*; *Curtis, Charles*; *Curtis Act of 1898*; *Indian Territory*; *Owen, Robert Latham*.

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BIBLIOGRAPHY

- Belcher, Wyatt W. "Political Leadership of Robert L. Owen." *The Chronicles of Oklahoma*, vol. 31 (Winter 1953–1954): 361–371.
- Brown, Kenny L. "A Progressive from Oklahoma: Senator Robert Latham Owen, Jr." *The Chronicles of Oklahoma*, vol. 57 (Fall 1984): 232–265.
- Unrau, William E. *Mixed-Bloods and Tribal Dissolution: Charles Curtis and the Quest for Indian Identity*. Lawrence: University Press of Kansas, 1989.
- Viola, Herman J. *Ben Nighthorse Campbell: An American Warrior*. New York: Orion Books, 1993.

Congress, U.S.

As the lone branch of the federal government authorized to deal with Indian affairs, Congress is the primary policy maker in the field. Congress's authority to deal with Indian issues is plenary (complete) and exclusive as to the states. Congress has legislated in almost every possible area of Indian affairs, often delegating extensive authority to the executive branch, and the Supreme Court has affirmed congressional authority in all but a few circumstances.

Sources of Congressional Authority over Indian Affairs

Article 1, section 3, clause 8 of the Constitution includes the Indian Commerce Clause, in which Congress is authorized

to "regulate commerce . . . with the Indian tribes." This replaced a similar clause in Article 9 of the Articles of Confederation that read, "The United States in Congress assembled shall also have the sole and exclusive right and power of . . . regulating the trade and managing all affairs with the Indians, not members of any of the States, provided that the legislative right of any State within its own limits be not infringed or violated." This provision in the Articles created one of the major problems for the federal government that contributed to the necessity for a new Constitution—federal authority for dealing with Indian tribes was nonexclusive, with the states negotiating separate treaties and land sales without the consent of Congress.

The Constitution, on the other hand, made clear that any authority over Indian affairs would be exercised by Congress to the exclusion of all others. The First Congress enacted the Trade and Intercourse Act in 1790, prohibiting anyone from engaging in commerce or any other relationship with Indians and Indian tribes without Congressional consent. In 1793 Congress amended the act to include criminal penalties for violators. Congress's interpretation of the word "commerce" was much broader than mere commercial activities and included any interaction with Indians and tribes, even venturing into Indian Country without a mandate from Congress to do so. But the Indian Commerce Clause is not the sole source of authority for the federal government in Indian affairs. The War Power, the Treaty Power, the Property and Territory Clauses, and the overall structure of the Constitution have been cited at different times as authorizing all but absolute power for Congress and the executive branch to legislate and administer Indian affairs. In *United States v. Lara* (2004), the Supreme Court asserted that congressional plenary power derives from a "preconstitutional" source of power that is a "necessary concomitant of nationality." In other words, theoretically, the authority of the U.S. government to regulate all Indian affairs was a power necessary for the existence of the nation even before the creation and ratification of the Constitution.

Extent of Congressional Authority over Indian Affairs

The Supreme Court has long agreed that Congress's authority in Indian affairs is plenary and exclusive, allowing Congress to legislate in areas that appear to be all but absolute. Over time, the Court has concurred in congressional power to abolish Indian treaty rights without tribal consent (*Lone Wolf v. Hitchcock* [1903]), legislate over criminal



Until 1871 the U.S. Senate had the exclusive power to ratify federal treaties with Indian tribes. After the House Appropriations Act of that year, the House of Representatives began to play a more active role in Indian affairs.

law in Indian Country (*United States v. Kagama* [1886]), determine and mandate tribal membership criteria (*United States v. Rogers* [1846]), and even to take Indian property without compensation (*Federal Power Commission v. Tuscarora Indian Nation* [1960]). The Court declared that cases involving Indians and Indian tribes were political questions which the Court was barred from deciding in order to preserve the separation of powers between the judicial branch and the rest of the federal government. In *United States v. Holliday* (1865), for example, the Court decided that it would not second-guess a decision by Congress or the executive branch over whether a group of Indians (in this case, the Saginaw Chippewa tribe of Michigan) retained sovereign tribal status or had ceased to hold its sovereignty.

Over time Congress delegated significant authority to the president and the departments of war and the interior to handle the day-to-day dealings in Indian affairs. An 1834 act created what would later become the Bureau of Indian Affairs and provided for the broad authority of the president to administer Indian relations. Congress also has delegated significant authority to the states and to the tribes themselves to handle Indian affairs in particular circumstances.

Indian Treaty Ratification

Congress's participation in the ratification of Indian treaties was very significant. Under Article 2, section 2, clause 2 of the Constitution, the president is authorized to negotiate and execute treaties with foreign nations (and Indian tribes) "by and with the advice and consent of the Senate." As such, all

Indian treaties had to be ratified by the Senate before they became law. In numerous instances, the Senate voted to unilaterally amend Indian treaties. Sometimes the federal treaty negotiators would inform the tribal treaty negotiators of the change and seek their consent for the amendment; in other instances, the amendment would go unreported to the tribes.

For example, the treaties of the Indian tribes in what would become the State of California negotiated around the 1850s were delivered to the Senate for ratification, but then were locked away for decades. The California tribes, unaware their treaties had never been ratified, followed the treaty provisions for several years while the United States ignored them. In other instances, the Senate amended Indian treaties at the request of political favorites. Such was the case with the 1855 Treaty of Detroit, which had been made with several bands of Michigan Anishinaabek (Ottawas and Chippewas). The Senate reduced the size of the Indians' reservation by removing the tip of the Leelanau Peninsula in order to preserve the land rights of influential non-Indians living in Northport, Michigan.

Congress also acquired additional authority over Indian affairs as a consequence of the cessions of authority made by the Indian tribes. For example, in Article 3 of the 1785 Treaty of Hopewell, the Cherokee Nation agreed to place itself under the "protection of the United States of America, and of no other sovereign whatsoever." In *Cherokee Nation v. Georgia* (1831), a sharply divided Supreme Court held that the word "protection" implied that the Cherokee Nation had become dependent on the United States. The next year,

in *Worcester v. Georgia*, Chief Justice John Marshall held that the word “protection” meant that the Cherokee Nation had agreed to be under the military protection of the United States and therefore was not dependent in any other respect. But the word “protection” appeared in other treaties as well and the Court often interpreted it to mean that the Indian tribes had granted all but absolute power to the federal government to decide Indian affairs. And even if the word “protection” did not appear in an Indian treaty, in cases such as *Lone Wolf v. Hitchcock* the Court ascribed the dependence associated with the term to all Indian tribes regardless. The *Lone Wolf* Court interpreted the 1867 Treaty of Medicine Lodge Creek with the Kiowa and Comanche tribes—which did not include the term “protection” or any other similar language—to mean that those tribes were utterly dependent on the federal government. In spite of a treaty provision that prohibited the further cession of Indian lands without tribal consent, the Court used its dependency theory to uphold the allotment of these tribes’ reservation through an act of Congress and without valid tribal consent.

Later, the Supreme Court held that Congress had acquired the authority to extend federal criminal law and jurisdiction into Indian Country through the Major Crimes Act in *United States v. Kagama* (1886). This ruling was ironic considering that the Court explicitly stated that the authority to deal in Indian affairs must rest with the federal government, even if the authority could not be found in the Constitution. The Court again injected the concept of tribal dependency as a source of congressional authority into its analysis.

The End of Treaty Negotiation

In 1871 the House of Representatives inserted a rider in the Department of Interior’s appropriations bill (often referred to as the Indian Appropriations Act) that attempted to relieve the president of his authority to negotiate treaties with Indian tribes. This statute was of dubious constitutionality because the power of Congress to limit the constitutional authority of the president to make treaties is nonexistent, but as a statement of federal policy, the 1871 act did serve as the end point of the era of Indian treaty making. The act did, however, preserve all rights and responsibilities created in previously ratified Indian treaties.

After the supposed end of treaty making, the federal government continued to negotiate important agreements with Indian tribes. These agreements between sovereigns became law just as a treaty would have, but the House and Senate both had to debate and approve the agreements. In the mod-

ern era, Congress has authorized the Department of Interior to negotiate compacts and other agreements with Indian tribes that are, for all practical purposes, treaties. Congress also has authorized tribes and states to negotiate gaming compacts and agreements relating to Indian child welfare. In recent years, states and local governments have negotiated several different kinds of intergovernmental agreements providing for, among other issues, cooperation in tax collection, law enforcement, economic development, and the provision of a wide variety of governmental services.

The Trust Relationship

The relationship between the federal government and Indian tribes is characterized as a trust relationship, with Congress the ultimate “trustee” for the tribes. The origins of this relationship date back to the Cherokee cases—*Cherokee Nation v. Georgia* (1831) and *Worcester v. Georgia* (1832)—in which Chief Justice John Marshall wrote that Indians and Indian tribes were dependent upon Congress and that Congress must deal with the tribes in good faith. In *Worcester*, for example, the Court interpreted vague language in the Cherokee treaties to the benefit of the Indians in holding that the Cherokee Nation retained most of the elements of sovereignty. Because the Cherokee treaty negotiators might not have understood the nuances of the treaty language as the American negotiators would have, the Court held that the treaty provisions must be interpreted as the Cherokees would have understood them. Various Indian treaty provisions in which Indian tribes placed themselves under the “protection” of the American government or otherwise required the government to keep the tribes and non-Indians separate cemented the trust relationship. In most treaties, the federal government promised to undertake some duty or duties that served to preserve tribal sovereignty or Indian land holdings—for example, removing squatters by force.

Cases where Indians and Indian tribes attempted to enforce the trust responsibility have fallen into two categories. First, there were claims brought against the federal government relying upon express wording in statutes, regulations, or treaties that created a trust duty on the part of the federal government. These kinds of cases were based on what could be called a “hard trust.” Second, there were claims brought against the federal government based on the general notion that the federal government owed a more general trust duty to Indians and Indian tribes. This type of case arose in large part after the 1960s and 1970s, when the Supreme

Court opened the door to common law trust actions, or “soft trust” cases.

The first type of trust responsibility case—the “hard trust” case—is exemplified by *United States v. Mitchell* (“*Mitchell II*”) (1983) and *United States v. White Mountain Apache Tribe* (2003). In *Mitchell II*, the Court held that the federal government’s regulations, in which the government controlled most aspects of a tribal timber program on the Quinault Indian reservation, created a trust duty for the benefit of the tribe, allowing the tribe to sue the government for damages when the government wasted the timber. In *White Mountain Apache Tribe*, Congress’s creation of Fort Apache, its mismanagement of the fort, and later transfer of ownership to the tribe created a legal duty to the tribe, allowing it to sue the government for damage to the property caused by the neglect of the government.

Until 1977 the Supreme Court refused to exercise its power of judicial review over congressional legislation and executive branch decisions in Indian affairs in all but a few cases. In *Lone Wolf v. Hitchcock*, for example, the Court refused to question Congress’s judgment in allotting the Kiowa and Comanche tribes’ reservation. The Court stated that Congress must deal with Indian tribes with “perfect good faith,” but it also held that the question of whether Congress did deal in perfect good faith was a political question for Congress and not subject to judicial review. On occasion, the Court recognized that the federal government had failed in its duty to an Indian tribe, as it did in *Seminole Nation v. United States* (1942), where the Court held that the federal government must handle Indian trust accounts under the “most exacting fiduciary standards.” In 1977 the Court in *Delaware Tribal Business Committee* agreed to review and even strike down Indian affairs legislation if it was not rationally tied to a legitimate congressional purpose.

The other type of trust case—or “soft trust”—is exemplified by *United States v. Mitchell* (“*Mitchell I*”) (1980), in which the Quinault Nation argued that the General Allotment Act of 1887, which stated that allotted Indian lands would be held in trust pending the issuance of a final patent to the Indian owner, did not create a trust duty to manage the lands. The main characteristic of a soft trust case often was a claim made by the tribal interest that the federal government should have taken affirmative action to prevent the loss of Indian property, for example, on the basis that the federal government owed a general responsibility to Indians and Indian tribes. Claims in this vein almost always failed.

However, the general trust responsibility of the federal government served to buttress the legal foundation for Indian affairs legislation that might otherwise have been vulnerable to attacks on the basis that the legislation created race-based classifications that would be subject to strict scrutiny under the Fifth Amendment Due Process Clause. However, the Supreme Court, in cases such as *Morton v. Mancari* (1974), has held that acts of Congress extending benefits, preferences, or even disadvantages to Indians and Indian tribes are consistent with the common law trust responsibility of the federal government to tribal interests and are not subject to strict scrutiny.

Critical Indian Affairs Legislation

Acts of Congress in the area of Indian affairs are classified in Title 25 of the United States Code. Sections 2 and 9 delegate very broad administrative authority to the president and the secretary of interior to administer Indian affairs and implement statutory and treaty provisions. These delegations authorized the secretary of interior to create law and order codes, tribal courts, and tribal police in the nineteenth century; the Federal Acknowledgment Process for unrecognized Indian tribes in 1978; and regulations for the Indian Gaming Regulatory Act, among other things, more recently.

The first major piece of legislation Congress passed under its authority was the Trade and Intercourse Act in 1790. The act prohibited anyone from entering Indian Country or engaging in any land sales or other commercial or political activity with Indians and tribes without the consent of Congress. In 1830 Congress passed the Indian Removal Act, which authorized the president to negotiate treaties with eastern Indian tribes that would result in the exchange of land west of the Mississippi River for the cession of Indian lands in the east. The executive branch’s enforcement of the act led to incredible suffering during the removal period.

In 1887 Congress passed the General Allotment Act, also known as the Dawes Act. The act expressed the will of Congress to break up and allot Indian lands amongst the Indians living on a particular reservation and to allow the secretary of interior to sell the “surplus” lands of the reservation to non-Indians. Theodore Roosevelt called the act and its implementing statutes “a mighty pulverizing engine to break up the tribal mass” (David H. Getches, “Conquering the Cultural Frontier,” 1996). Allotment of Indian lands led to the dispossession of millions of acres of once-communal tribal property. In 1934 Congress put an end to the allotment era by enacting the Indian Reorganization Act. This act

allowed Indian tribes to reorganize into municipal forms of government and remains the governing document of much of modern Indian law and policy.

However, in 1953 Congress enacted House Resolution 108, noting that it was the belief of Congress that the relationship between the federal government and Indians tribes should be “terminated.” This led to the political termination of over one hundred Indian tribes and the resurgence of Indian land dispossession. Also in 1953 Congress enacted Public Law 280, which extended state criminal and civil jurisdiction into Indian Country in several states, including California and Minnesota. In 1968 Congress attempted to extend American-style civil rights protections to Indian people in the Indian Civil Rights Act. Congress moved away from termination and toward self-determination in the 1970s, culminating in the enactment of the Indian Self-Determination and Educational Assistant Act in 1975. Congress has enacted numerous “self-determination” and “self-governance” acts in the years since. In 1988 Congress passed the Indian Gaming Regulatory Act, after a Supreme Court decision in *California v. Cabazon Band of Mission Indians* (1987), which involved tribal high-stakes bingo operations.

See also *Allotment in Severalty; Articles of Confederation; California v. Cabazon Band of Mission Indians; Cherokee Nation v. Georgia; General Allotment Act (Dawes Act) of 1887; Hopewell, Treaties of; House Resolution 108; Indian Appropriations Act of 1871; Indian Civil Rights Act; Indian Commerce Clause; Indian Country; Indian Gaming Regulatory Act; Indian New Deal; Indian Reorganization Act; Indian Self-Determination and Education Assistant Act; Lone Wolf v. Hitchcock; Major Crimes Act; Medicine Lodge Creek, Treaty of; Morton v. Mancari; Public Law 280; Termination and Restoration; Trade and Intercourse Acts; Treaty Abrogation; Treaty Interpretation: Judicial Rules and Canons of Construction; Treaty Ratification; Treaty Substitutes: Agreements and Executive Orders; Trust Responsibility Doctrine; United States v. Kagama; United States v. Mitchell; Worcester v. Georgia.*

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BIBLIOGRAPHY

- California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987).
Cherokee Nation v. Georgia, 30 U.S. 1 (1831).
 Cleveland, Sarah H. “Powers Inherent in Sovereignty: Indians, Aliens, Territories, and the Nineteenth Century Origin of Plenary Power over Foreign Affairs.” *Texas Law Review*, vol. 82 (November 2002): 25–81.
Delaware Tribal Business Committee v. Weeks, 430 U.S. 73 (1977).
Federal Power Commission v. Tuscarora Indian Nation, 362 U.S. 99 (1960).
 Fletcher, Matthew L. M. “The Iron Cold of the Marshall Trilogy.” *North Dakota Law Review*, vol. 82, no. 4 (2006): 628–696.

- . “The Supreme Court and Federal Indian Policy.” *Nebraska Law Review*, vol. 85, no. 1 (2006): 121–185.
 Getches, David H. “Conquering the Cultural Frontier: The New Subjectivism of the Supreme Court in Indian Law.” *California Law Review*, vol. 84 (December 1996): 1573–1655.
Lone Wolf v. Hitchcock, 187 U.S. 553 (1903).
Morton v. Mancari, 417 U.S. 535 (1974).
 Newton, Nell Jessup. “Federal Power over Indians: Its Sources, Scope, and Limitations.” *University of Pennsylvania Law Review*, vol. 132 (January 1984): 195–288.
Seminole Nation v. United States, 316 U.S. 286 (1942).
United States v. Holliday, 70 U.S. 407 (1865).
United States v. Kagama, 118 U.S. 375 (1886).
United States v. Lara, 541 U.S. 193 (2004).
United States v. Mitchell, 445 U.S. 535 (1980) (“*Mitchell I*”).
United States v. Mitchell, 463 U.S. 206 (1983) (“*Mitchell II*”).
United States v. Rogers, 45 U.S. 567 (1846).
United States v. White Mountain Apache Tribe, 537 U.S. 465 (2003).
 Williams, Robert A., Jr. “The Algebra of Federal Indian Law: The Hard Trail of Decolonizing and Americanizing the White Man’s Indian Jurisprudence.” *Wisconsin Law Review* (1986): 219–299.
Worcester v. Georgia, 31 U.S. 515 (1932).

Congressional Committees on Indian Affairs

The congressional Indian affairs committees have their roots in the Continental Congress, which established a committee in 1775 to negotiate with eastern tribes. The U.S. Senate and the House of Representatives created standing Indian affairs committees in 1820 and 1821, respectively. However, these committees did little more than support presidential policies until 1871, when treaties with Indian tribes were no longer authorized by the government. In the late nineteenth and early twentieth centuries, the Indian affairs committees produced legislation designed to foster the assimilation of Native Americans into mainstream American society. During the postwar tribal termination period, the 1946 Congressional Reorganization Act dissolved the House and Senate Indian affairs committees. In response to the new era of Indian self-determination that began in the 1960s and 1970s, the Senate created the Select Indian Affairs Committee in 1977, while the House currently considers most Indian-related legislation within the Committee on Natural Resources.

The Indian Treaty and Removal Era

Prior to 1871, U.S. presidents and tribal leaders signed more than 370 treaties that were each approved by the Senate, as required by the U.S. Constitution. In the 1820s the Senate and House established standing Indian affairs committees to

oversee the execution of the treaty provisions. Congress also took responsibility for regulating trade with Indian tribes and considered legislation relating to the care, education, and management of Indians and their lands. It also handled the logistics and funding of the transfer of the eastern Native tribes to lands west of the Mississippi River.

Following a dispute with the Cherokee Nation in the late 1820s, Georgia initiated the Indian removal era when it declared the end to tribal government within its borders. The state's congressional delegation then called for the relocation of southeastern Indian tribes, enlisting the support of President Andrew Jackson and other southern senators and representatives. In 1830 the chair of the Senate Committee on Indian Affairs, Hugh Lawson White, a Jacksonian from Tennessee, urged Congress to authorize negotiations to remove Indians from the existing states. In response, the House and Senate passed the Indian Removal Act in 1830. The Senate then approved the 1835 treaty that forced the Cherokee Indians to the Indian Territory (present-day Oklahoma), as well as many other Indian removal treaties.

By mid-century the West no longer served as a safe refuge for Indians, as migrating settlers came into conflict with relocated tribes. Indian commissioners lobbied Congress for protected areas to be set aside for the exclusive use of Native Americans. In 1851 Congress passed the Indian Appropriations Act, which created the first reservations. While the Senate ratified treaties purporting to ensure the survival of reservation Indians, many Native Americans suffered from starvation or disease as they waited for delayed government annuities. Tribal leaders petitioned Congress for additional services as white settlers filed claims citing Indian violence or theft of property. In 1865 the Senate committee chair, James Doolittle, investigated the escalating conflicts between Indians and whites on the frontier. Finding that treaties and warfare did not settle disputes, he authorized a new commission in 1867 to establish peace with the western tribes.

Meanwhile, the House, which had no constitutional role in treaty making, considered itself cut off from Indian negotiations. In 1871 the House committee attached an amendment to an appropriations bill, declaring that the federal government would no longer recognize tribes as sovereign entities capable of making treaties. The tribes, however, could partake in agreements approved by both houses of Congress. The 1871 law ended the Indian treaty-making era in American history, allowing the House and Senate to take an increased role in Indian affairs. Congress approved fifty-six

cooperation agreements until 1914, when federal statutes replaced negotiations with individual tribes.

The Assimilation and Allotment Era

After the treaty-making era, power to negotiate with Indian tribes transferred from tribal leaders and the president to the members of the House and Senate Indian affairs committees. In the late nineteenth and early twentieth centuries, the committees produced legislation designed to foster the assimilation and independence of Native Americans. Chaired by Republican Henry Dawes of Massachusetts, the Senate committee reported a bill dividing reservation lands into individual homesteads in 1887. The General Allotment Act, or Dawes Severalty Act, divided communal tribal holdings and distributed them in small acreage plots to individual Indians. In 1898 House committee member Republican Charles Curtis, a Kaw Indian and future vice president, sponsored the Curtis Act, which extended allotment to the Indian Territory and subjected individual Native Americans to federal, rather than tribal, law. Additional turn-of-the-century legislation attempted to dissolve individual tribes while promoting the integration of Indians into the larger society.

In the years following passage of the Dawes Act, the Senate created select and standing committees to ensure compliance with the law and to investigate Indian claims of theft, instances of trespassing on Indian lands, and Indian expenditures. These committees were consolidated under the Committee on Indian Affairs in 1921. The committee had one subcommittee to investigate charges of waste and mismanagement in the Indian Office, now called the Bureau of Indian Affairs.

The Indian New Deal and Tribal Termination

In 1934 Congress passed the Indian Reorganization Act, which ended allotment and attempted to return the management of their lands and natural resources to Native Americans. The act also provided the means for tribes to adopt constitutions and establish new corporate governments. This shift in federal policy was reversed after World War II (1939–1945) with the beginning of the termination era, during which Congress adopted legislation aimed at destroying tribal units, ending federal support for tribes, and transferring the management of Indian affairs to the states. The 1946 Legislative Reorganization Act coincided with the withdrawal of federal support to Indian tribes. The act, which reformed the committee structure in Congress, abolished the Indian Affairs committees.

Between 1947 and 1977, Indian affairs, including the health, welfare, and education of Indians, were spread between several standing committees. Most land-related legislation, however, was handled first by the public lands committees and then by the interior and insular affairs committees. In 1953 Congress adopted a House resolution declaring that the federal government would cease the supervision of Indians, diminishing the need for Indian legislation.

The Self-Determination Era

By the mid-1960s, many policy makers considered termination to be a failure and the federal government began reforming Indian affairs once again. Two Senate committees held a series of hearings on the status of Native Americans, resulting in the Indian Civil Rights Act of 1968 and the Indian Education Act of 1972. The Menominee Restoration Act of 1973 formally ended the termination period, restoring the status of tribes and federal services to Indians. Hundreds of tribes, including Alaska Native villages, were either reestablished or officially recognized for the first time, making it difficult for members of Congress to manage the sudden influx of tribal claims. In 1973 Senator James Abourezk sponsored legislation creating the American Indian Policy Review Commission. After a two-year investigation between 1975 and 1977, the commission found that the current committee system was inadequate to handle complex Indian policy.

In response to the commission's report, in 1977 the Senate created the temporary Select Committee on Indian Affairs, which handled issues pertaining to American Indians, Native Hawaiians, and Alaska Natives. The committee became permanent in 1984. (As opposed to standing committees that primarily develop legislation, select committees often provide an oversight function and are considered less powerful and prestigious than standing committees.) In 1993 Chair Daniel Inouye, a Democrat from Hawaii, sponsored a resolution dropping the word "select" from the committee's title. Although the technical amendment changed the committee's name to the Senate Committee on Indian Affairs, the redesignation was largely symbolic and it remains a select, not a standing, committee. Nevertheless, the committee's members have sponsored major legislation, including the Indian Gaming Regulatory Act (1988) and the bill authorizing the National Museum of the American Indian (1989). In 1997 Republican Ben Nighthorse Campbell of Colorado, a Northern Cheyenne, became the first senator of Native American descent to chair

the committee. Campbell served two terms as chair, from 1997 to 2001 and from 2003 to 2005. Other prominent former chairs include Senator Abourezk (1977–1979), the committee's founding chair; William S. Cohen (1981–1983); Senator Inouye (1987–1995 and 2001–2003); and Sen. John McCain (1995–1997 and 2005–2007).

In contrast to the Senate, the 1977 commission report prompted the House to create an Indian affairs subcommittee that existed for two years within the Committee on Interior and Insular Affairs. Various full committees handled Indian affairs until 1993, at which time the new House Committee on Natural Resources formed a subcommittee that currently considers Indian related legislation.

In recent years, Indian activists and members of Congress have demanded the development of standing Indian affairs committees in both the House and Senate, citing the importance of Indian legislation to the country at large. However, as of the 110th Congress (2007–2009), there were no indications that a change in committee status was forthcoming.

See also *Assimilation and Acculturation; Allotment in Severalty; Dawes, Henry L.; General Allotment Act (Dawes Act) of 1887; Indian Appropriations Act of 1871; Indian Civil Rights Act; Indian Education Act of 1972; Indian New Deal; Indian Removal Act (1830); Indian Reorganization Act (1934); Removal; Self-Determination; Termination and Restoration.*

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BIBLIOGRAPHY

- Deloria, Vine, Jr. "Congress in its Wisdom: The Course of Indian Legislation." In *The Aggressions of Civilization*, edited by Sandra L. Cadwalader and Vine DeLoria Jr., 105–130. Philadelphia: Temple University Press, 1984.
- U.S. Congress. Senate. Committee on Energy and Natural Resources. *History of the Committee on Energy and Natural Resources, United States Senate, as of the 100th Congress, 1816–1988*. 100th Cong., 2d sess. Washington, D.C.: Government Printing Office, 1989.
- U.S. Congress. Senate. Committee on Indian Affairs. "Committee Background," available for download from <http://indian.senate.gov/public/index.cfm?FuseAction=About.History>.
- Wilkins, David E. "The 'De-Selected' Senate Committee on Indian Affairs and Its Legislative Record, 1977–1992." *European Review of Native American Studies*, vol. 9 (1995): 27–33.
- Wunder, John R. "No More Treaties: The Resolution of 1871 and the Alteration of Indian Rights to Their Homelands." In *Working the Range*, edited by John R. Wunder, 39–56. Westport: Conn.: Greenwood Press, 1985.

Conquest, Doctrine of

The doctrine of conquest refers to two different ideas in the history of the law of Euro-American and Indian relations.

First, it suggests a military victory by a non-Indian nation over an Indian tribe, which results in the victor acquiring sovereignty over the defeated tribe. This definition is reflected in Spanish, English, and American ideas that “just wars,”—that is, wars generally deemed legally or philosophically moral by the community of nations—could under certain circumstances justify the physical invasion of Indian lands.

Second, the word conquest has a special meaning when it is used as an element of the doctrine of discovery, which holds that the first “Christian” nation to “discover” previously unknown lands received first claim of title against all other nations. Under European law, the individual property rights of a conquered people were not disturbed, although the victorious nation was deemed to have acquired sovereignty over the conquered territory.

The United States Supreme Court embraced the doctrines of discovery and conquest in *Johnson v. M’Intosh* in 1823 and used them to rationalize the United States’s extension of sovereignty over the Indian tribes within its borders. The Court considered the first European discoveries of Native lands to be military conquests, as the newly arrived Europeans claimed political and commercial rights over the Natives, and declared that the United States had succeeded to those rights. The Court further held that the national interests of the United States prevented it from leaving the Indian nations in complete ownership of their territories. Therefore, the Court said, it would follow the European precedent and hold that conquest left the Native peoples with only the right to occupy their lands.

See also *Johnson v. M’Intosh* (1823).

Robert J. Miller

BIBLIOGRAPHY

Johnson v. M’Intosh, 21 (8 Wheat) U.S. 543 (1823).

Miller, Robert J. *Native America, Discovered and Conquered: Thomas Jefferson, Lewis & Clark, and Manifest Destiny*. Westport, Conn. and London: Praeger Publishers, 2006.

Williams, Robert A. Jr. *The American Indian in Western Legal Thought: The Discourses of Conquest*. New York: Oxford University Press, 1990.

Constitution, Iroquois Influences on the U.S.

The five nations of the Mohawks, Oneidas, Onondagas, Cayugas, and Senecas (the Tuscaroras became the sixth nation to join in the early eighteenth century) created the

Iroquois Confederacy (the Haudenosaunees, or “People Building a Long House”) sometime between 1190 and 1525. They put the prophet Deganawidah’s vision of intertribal peace and unity into practice. As noted by Onondaga chief Oren Lyons when he addressed United Nations delegates in 1992, “we were instructed to create societies based on the principles of peace, equity, justice, and the power of good minds.” The Great Binding Law, he said, became the constitution for the Iroquois Confederacy.

Scholars agree that this indigenous and ingenious structure achieved substantial levels of internal peace and external influence. It empowered the Iroquois to dominate other tribes and rival the French, Dutch, and English colonies. Through shrewd intratribal, intertribal and cross-cultural diplomacy, the Iroquois Confederacy held the balance of power in northeastern North America from approximately 1641 until 1779. During this era there were increasing contacts between European Americans (traders, agents, missionaries, soldiers, treaty negotiators, surveyors, interpreters) and Native Americans. Unfortunately, greater familiarity bred as much contempt and divergence as admiration and convergence. Most European Americans neither respected nor understood Indian cultures or customs. But due to frequent encounters between the two societies, some of the Indian side of the story was recorded and should be considered an essential part of colonial American history.

As a consequence of the political activism of the 1960s, a more inclusive outlook developed in which scholars attempted to reveal how American Indians influenced the history of the United States. Some scholars have asserted that prominent founders such as George Washington and Benjamin Franklin expressed high regard for the concepts, principles, and governmental practices of the Six Nations Iroquois Confederacy. As a result, some have argued that many of the democratic principles in the Articles of Confederation (1777) and U.S. Constitution (1787) were explicitly modeled on the Iroquois Confederacy. This historical interpretation is known as the “Iroquois influence thesis.”

The documentary evidence most cited by supporters of the Iroquois influence thesis indicates that at the signing of the Treaty of Lancaster in 1744, the Onondaga sachem Canassatego recommended that the thirteen British colonies should follow the Iroquois example of strength through unity in a powerful confederation. For the Iroquois, confederation created a loose governing structure in which a grand council dealt with common external matters (such as war-

fare and diplomacy), while each tribe maintained its own internal autonomy. Under the Articles of Confederation, the United States of America was formed as a “firm league of friendship,” with each state retaining every power not delegated expressly to the national Congress. Moreover, both the Great Law of Peace and the U.S. Constitution adhered to balanced and limited political principles based upon the consent of the people. Both governing structures also utilized complex arrangements based upon separation of powers, checks and balances, a veto power, ratification, and impeachment (or, for Iroquois chiefs, “dehorning”).

Opponents of the Iroquois influence thesis point out that Anglo-American political leaders sought very specific and limited goals from negotiations with Iroquois sachems. They wanted profitable trade relations and alliances depending on shifting balance-of-power circumstances in North America. Benjamin Franklin’s 1751 reference to “six Nations of ignorant Savages” (Benjamin Franklin, *The Writings of Benjamin Franklin*, Vol. 2, 1970), and Thomas Jefferson’s 1776 grievance about “merciless Indian savages” in the Declaration of Independence, they maintain, illustrate that these founders did not desire to emulate Native Americans. Most European Americans during the colonial era did not respect or understand Indian worldviews or governance.

Opponents of the theory also argue that parallel concepts in close geographic proximity, like mixed government and natural rights, can be arrived at independently and that societies that espouse them do not necessarily influence each other. Contending assessments of Iroquois influence on the United States government will continue because *influence* remains difficult for scholars to prove or disprove. When considering cause and effect, a number of similarities and correlations do not necessarily indicate decisive influences. Opponents of the Iroquois influence thesis also suggest that a different approach to observing influences is to ask the opposite question: are there any significant disparities? Any reading of the Great Law, they say, reveals more differences with the U.S. Constitution than similarities.

But more importantly, the Great Law of Peace and the Iroquois Confederacy represent the most documented indigenous confederation in North America. The confederacy predated the creation of the United States by at least two hundred fifty years, and even if it had little or no influence on the U.S. Constitution, it is worth acknowledging as an indigenous sociopolitical system that embraced many of the same themes as American republicanism.

See also *Articles of Confederation*; Franklin, Benjamin; Lyons, Oren; *Constitution, U.S.*; Washington, George.

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BIBLIOGRAPHY

- Fenton, William N., ed. *Great Law and the Longhouse*. Norman: University of Oklahoma Press, 1998.
- Franklin, Benjamin. *The Writings of Benjamin Franklin Collected and Edited with a Life and Introduction*. Vol. 2: 1722–1750. Edited by Albert Henry Smythe. New York: Haskell House Publishers, 1970.
- Grinde, Donald A., and Bruce E. Johansen. *Exemplar of Liberty: Native America and the Evolution of Democracy*. Berkeley: University of California American Indian Studies Program, 1991.
- . “Sauce for the Goose: Demand and Definitions for ‘Proof’ Regarding the Iroquois and Democracy.” *William and Mary Quarterly*, vol. 53, no. 3 (1996): 628–635.
- Levy, Philip A. “Exemplars of Taking Liberties: The Iroquois Influence Thesis and the Problem of Evidence.” *William and Mary Quarterly*, vol. 53, no. 3 (1996): 587–604.
- Lutz, Donald S. “The Iroquois Confederation Constitution: an Analysis.” *Publius*, vol. 28, no. 2 (1998): 99–131.
- Lyons, Chief Oren. Address to delegates at the United Nations opening of “The Year of the Indigenous Peoples (1993).” New York City, December 10, 1992.
- Payne, Samuel B. “The Iroquois League, the Articles of the Confederation, and the Constitution.” *William and Mary Quarterly*, vol. 53, no. 3 (1996): 605–620.
- Shannon, Timothy J. *Indians and Colonists at the Crossroads of Empire: The Albany Congress of 1754*. Ithaca: Cornell University Press, 2000.
- U.S. Congress. Senate. *To Acknowledge the Contribution of the Iroquois Confederacy of Nations to the Development of the U.S. Constitution and to Reaffirm the Continuing Government-to-Government Relationship between Indian Tribes and the United States Established in the Constitution*. 100th Cong., 1st sess. September 16, 1987, Senate Concurrent Resolution 76.
- Williams, Robert J. *Linking Arms Together: American Indian Treaty Visions of Law and Peace, 1600–1800*. Oxford: Oxford University Press, 1997.

Constitution, U.S.

Indian tribes, along with foreign nations and the American states, are listed in the United States Constitution as governments that Congress is granted authority to deal with on commercial issues. The founders who drafted the Constitution viewed Indian tribes as full-fledged political entities that controlled their citizens and their territories. Indeed, prior to the creation of the United States, Euro-American colonists had dealt with Indian tribes on an official governmental and treaty-making basis. It was natural, then, that the representatives of the thirteen original states included in the Constitution a provision controlling how the newly formed federal government would deal with the Indian nations. In Article 1, section 8, the Constitution pro-

vides that “Congress shall have Power . . . to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.”

The United States Supreme Court has interpreted this constitutional language to mean that Congress was granted the exclusive power to regulate U.S. trade and affairs with Indian tribes. The very first Congress under the Constitution assumed this power. In the first five weeks of its existence, it enacted four laws concerning Indian affairs, including one in July 1790 that forbade states and individuals from buying Indian lands.

Tribes are also referred to, but are not expressly named, in Article 6 of the Constitution, which states that all treaties entered into by the United States “shall be the supreme Law of the Land.” Article 2, section 2, gives the president the authority “to make Treaties” with the advice and consent of the Senate. By 1789 the United States had entered into approximately twenty-two treaties with European countries and nine with Indian tribes.

Individual Indians are also mentioned in the Article I, section 2, and in the Fourteenth Amendment (1868). According to the amendment, when state populations were counted to determine how many representatives a state would have in the House of Representatives, Indians were not to be counted unless they paid taxes.

American Indian tribes played a major role in the development and history of the United States and engaged in official diplomatic and governmental relations with other sovereign governments from the moment Europeans arrived on the continent. Indian tribes have been a part of the day-to-day political life of the United States and continue to have a government-to-government relationship with the United States.

See also *Citizenship; United States and State; Constitution, Iroquois Influences on the U.S.; Government-to-Government Relations; Indian Commerce Clause; Indian Trade, Regulating.*

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BIBLIOGRAPHY

- Horsman, Reginald. *Expansion and American Indian Policy, 1783–1812*. East Lansing: Michigan State University, 1967.
- Miller, Robert J. “American Indian Influence on the United States Constitution and Its Framers.” *American Indian Law Review*, vol. 18 (1993): 133–160.
- Mohr, Walther H. *Federal Indian Relations, 1774–1788*. Philadelphia: University of Pennsylvania Press, 1933.
- Prucha, Francis Paul. *American Indian Policy in the Formative Years: The Indian Trade and Intercourse Acts, 1790–1834*. Cambridge: Harvard University Press, 1962.

Constitutions, American Indian

In general, modern American Indian constitutions are a mixture of tribal, federal, and municipal laws. Most tribal constitutions contain elements of federal interference, with limited specified powers and provisions authorizing federal supervision of tribal lawmaking, the result of decades of federal coercion and control. Those tribes that have written constitutions have begun the process of removing these unwanted features.

The Cherokee Nation adopted one of the first written tribal constitutions in 1827 as a means of proving to the outside world that Indians lived by a rule of law (see page 222). The Cherokee constitution borrowed many of the political elements of the United States Constitution. Other Indian nations, including the major tribes in the Southeast, followed the Cherokee example in the nineteenth century.

Many more tribes adopted constitutions after Congress enacted the Indian Reorganization Act (IRA) in 1934. Under the act, each tribe’s membership could vote to adopt the reorganization plan proposed by the statute, which included the opportunity to develop and adopt a tribal constitution. Many traditional and insular tribal communities refused the opportunity, and some of these tribes, the Navajo Nation being one example, have no written constitution.

The promise of constitutional reform under the IRA gave way to the notorious “model IRA constitutions,” where the Office of Indian Affairs imposed a standard constitution on most tribal communities. These model constitutions, usually adopted between 1935 and 1940, had no provision for separation of powers between branches of tribal government, no provisions for tribal courts, and a limited number of powers listed for tribal councils and tribal chairs. They limited tribal governments to exercising powers of municipal governments, with most power concentrated in the hands of the tribal chair. The most paternalistic provision inserted by the federal government into these model tribal constitutions was the requirement that the secretary of interior had to approve any amendments and even all ordinances passed by the tribal council before they were effective. Because the IRA granted the secretary authority to approve or disapprove any original tribal constitution, the tribes often had no choice but to accept the model constitutions offered by the U.S. government. Of course, these constitutions had little relationship to traditional tribal governments and often destroyed tribal customary law.

EXCERPT FROM THE CONSTITUTION OF THE CHEROKEE NATION, 1827

The Cherokee Nation adopted one of the first American Indian constitutions. Their constitution, consisting of twenty-four articles, borrowed some elements from the U.S. Constitution. Other tribal nations also adopted constitutions, particularly after passage of the Indian Reorganization Act in 1934.

We the Representatives of the people of the Cherokee Nation, in Convention assembled in order to establish justice[,] ensure tranquility, promote our common welfare, and secure to ourselves and our posterity the blessings of liberty, acknowledging with humility and gratitude the goodness of the sovereign ruler of the Universe affording us an opportunity so favorable to the design and imploring his aid and direction in its accomplishments do ordain and establish this Constitution for the Government of the Cherokee Nation.

Article 1st.

The boundaries of this nation embracing the lands solemnly guaranteed and reserved forever to the Cherokee Nation the treaties concluded with the United States is as follows, and which shall forever hereafter remain unalterably the same; To wit: Beginning on the north bank of the Tennessee River at the upper part of the Chickasaw Old Fields thence along the main Channel of said River including all the islands herein to the mouth of the Highwassee River thence up the main channel of said river including Islands to the first Hill which closes in on said river about two miles above Highwassee Old Town

Section 2. The sovereignty & jurisdiction of this Government shall extend over the Country within the boundaries above described, and the lands therein is & shall remain the Common property of the nation;

Article 2. The power of this Government shall be divided with three distinct departments, the legislative, Executive, and Judicial. 2nd. No person or persons belonging to one of these departments shall exercise any of the powers properly belonging to either of the others; except in cases herein after expressly directed or permitted.

Article 3. The Legislative power shall be vested in two distinct branches, a Committee and a council[,] each to have a negative on the other, and both to be stiled [sic] the General Council of the Cherokee Nation, and the style of their acts and laws shall be "Resolved by the Committee and Council in General Council Convened."

Section 2. The Cherokee Nation as laid off into eight Districts, shall remain so.

Section 3. The committee shall consist of two members from each district and the council shall consist of three members from each district, to be chosen by the qualified electors of their respective districts for two years, and the elections to be held in every district on the first monday [sic] in august [sic] for the year 1828 and every succeeding two years thereafter. And the Genl Council shall be held once a year to be convened on the second Monday of October in each year at New echota [sic]; no person shall be eligible to a seat in the general Council but a free Cherokee male citizen who shall have attained to the age of twenty five years the descendants of Cherokee men by all free women (except the african [sic] race) whose parents may be or may have been living together as man and wife according to the customs & laws of this nation & shall be entitled to all the rights and privileges of this Nation, as well as the posterity of Cherokee women by all free men, no person who is of a negro or mulato [sic] parentage either by the father or mother side, shall be eligible to hold any office of profit or honor or trust under this Government. The electors and members to the General Council shall in all cases except in those of treason, felony, or breach of the peace be privileged from arrest during their attendance at elections and the General Council, and in going to or returning from the same. In all elections by the people the electors shall vote Vi-Va-Voce. ...

Section 4. All free male citizens (excepting negroes and descendants of white & Indian men by Negro women who may have been set free) who shall have attained to the age of 18 years shall be equally entitled to vote at all public elections. –

Source: The Cherokee Constitution of 1827. *Tennessee's Landmark Documents*. Tennessee State Library and Archives. <http://tsla-teva.state.tn.us/landmarkdocs/files/135.php>.

The example of the Constitution of the Saginaw Chippewa Indian Tribe of Michigan in 1937 is instructive. Upon learning of the passage of the IRA, a group of tribal leaders began to develop a tribal constitution on their own. They adopted provisions consistent with their understanding of tribal government authority and tribal membership. The Office of Indian Affairs rejected their constitution as written and insisted upon restrictive tribal membership criteria and expansive federal control over tribal government activities. In the early twenty-first century, the tribe was still attempting to correct the bureau's failures.

The secretarial approval requirement hindered tribal governments for decades. In some instances, the federal government used that authority to coerce the tribe into accepting unfavorable gas and mining leases, with minimal royalty payments made to the tribes. The federal government often restricted tribal membership requirements in order to reduce federal entitlements to tribal members.

In 1968 Congress passed the Indian Civil Rights Act in an attempt to require tribal governments to follow most of the provisions of the Bill of Rights. Since then, many tribes have adopted their own versions of the Bill of Rights or incorporated the federal statute into their constitutions. However, some tribes have asserted that no such statute is necessary because the community already offers these protections to individuals, and, in some cases, the tribal protections are even stronger.

Many tribes are now in the difficult process of reworking their constitutions to better reflect the realities of tribal government and to erase the federal presence in them. In most instances, the Bureau of Indian Affairs (as the Office of Indian Affairs was renamed in 1947) now interferes less in these tribal decisions, but the political effects of past federal meddling are difficult to correct.

Tribes without written constitutions still follow a general and primary tribal law, with each branch of government (tribal councils and tribal courts being the primary branches) sharing the interpretation of tribal law through the enactment of legislation and the pronouncement of tribal common law.

See also *Indian Civil Rights Act; Indian Reorganization Act.*

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BIBLIOGRAPHY

Joranko, Timothy W., and Mark C. Van Norman. "Indian Self-Determination at Bay: Secretarial Authority to Disapprove Tribal Constitutional Amendments." *Gonzaga Law Review*, vol. 29 (1993–1994): 81–104.

Lemont, Eric D., ed. *American Indian Constitutional Reform and the Rebuilding of Native Nations*. Austin: University of Texas Press, 2006.

Pommersheim, Frank. *Braid of Feathers: American Indian Law and Contemporary Tribal Life*. Berkeley: University of California Press, 1995.

Strickland, Rennard. *Fire and the Spirits: Cherokee Law from Clan to Court*. Norman: University of Oklahoma Press, 1975.

Cooper, Peter

Peter Cooper (1791–1883) was a New York inventor, industrialist, and philanthropist who included advocacy for Native Americans among his many charitable and civic efforts. Cooper was raised close to peaceful Native communities and became shocked by their transition to warring tribes as whites began to advance upon their lands. Although a champion for white Western migration, he supported policies to allow whites and Native Americans to coexist in peace.

Cooper's formal Native endorsement began in 1868 after he read Lydia Maria Child's *An Appeal for the Indians*. He was inspired to found, along with prominent educators and religious men, the New York Indian Peace Commission, also known as the United States Indian Commission. Cooper believed that peace would come only if Native Americans adopted "our laws and became citizens with the right to represent their wants and their grievances in the government of our country" (Edward C. Mack, *Peter Cooper: Citizen of New York*, 1949). Rather than full assimilation, however, Cooper promoted Native education programs on reservations.

Through the commission, Cooper helped craft legislation that proposed a system of reservations free from white intrusions that could allow for the "civilization" of Native Americans. In 1869 the legislation led to the creation of the Board of Indian Affairs, which, under President Ulysses S. Grant's Peace Policy, had limited success in ending military campaigns against Native Americans and fostering a reservation system.

Cooper also sought to educate the public about Native cultures by bringing Indian delegations and leaders to speak at the Cooper Union for the Advancement of Science and Art. Cooper founded the union in 1859 in New York City.

See also *Assimilation and Acculturation; Civilization Program; United States Indian Commission.*

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BIBLIOGRAPHY

Mack, Edward C. *Peter Cooper: Citizen of New York*. New York: Duell, Sloan and Pearce, Inc., 1949.

Mardock, Robert W. "Indian Rights Movement until 1887." In *Handbook of North Americans*, edited by Wilcomb Washburn, 303. Washington, D.C.: Smithsonian Institution, 1988.

Cornplanter

Born the son of John Abeel (O'Bail), a Dutch trader, and a Seneca named Gahhononeh, the war chief Cornplanter (c.1740–1836) was known by many names, including John O'Bael and Gyantwakia. His half-brother was the religious leader Handsome Lake. He gained valuable military experience during the French and Indian War (1754–1763) as a participant in the 1755 defeat of British general Edward Braddock.

An advocate for Iroquois neutrality when the American Revolutionary War (1775–1783) erupted, he led the Seneca warriors that allied themselves with the British in 1777. Cornplanter participated in the August 1777 siege of Fort Stanwix and the June 1778 Battle of the Wyoming Valley. In 1780 he helped lead attacks in the Mohawk and Schoharie valleys of New York.

Following the revolution, Cornplanter adopted an accommodationist stance towards the United States. He helped negotiate the Fort Stanwix Treaty of 1784 and participated in treaty negotiations at Buffalo Creek in 1788, Fort Harmar in 1789, Canandaigua in 1794, and Big Tree in 1797. Each treaty hurt his standing among the Senecas since each included land cessions. For Cornplanter's efforts to preserve the peace, Pennsylvania awarded him land on the Allegheny River.

In 1792 the United States dispatched Cornplanter to the Ohio Valley in hopes that he could convince the local Natives to agree to a peace agreement. The Indians from the region, led by the Miamis and the Shawnees, contemptuously rebuffed his overtures.

In 1807 a rift formed between Cornplanter and Handsome Lake, who believed that Cornplanter was enriching himself at the expense of other Senecas. During the War of 1812, Senecas aligned with Cornplanter fought on behalf of the United States while Handsome Lake's followers were nonparticipants in the conflict.

In his latter years, Cornplanter had a religious vision that led him to burn the memorabilia he had accumulated from his years of military and diplomatic service to the United States. His subsequent preaching career ended soon after Pennsylvania authorities granted him and his heirs tax-exempt status on his land grant.

See also *Fort Harmar (1789), Treaty of; Fort Stanwix (1768), Treaty of; Handsome Lake.*

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BIBLIOGRAPHY

- Abler, Thomas S. *Cornplanter: Chief Warrior of the Allegany Senecas*. Syracuse: Syracuse University Press, 2007.
- Wallace, Anthony F. C. *The Death and Rebirth of the Seneca*. New York: Vintage Books, 1972.

Council of Energy Resource Tribes (CERT)

Twenty-three western tribes formed the Council of Energy Resource Tribes (CERT) in 1975. The nonprofit organization sought to become a clearinghouse for the information, technical support, and contracting expertise that tribes needed to manage natural resources such as oil, gas, coal, and uranium. CERT lobbied for federal funding and policy reforms that would make energy resource development better serve tribal needs and earn fair market value for Indians. Although often at odds with the Bureau of Indian Affairs, CERT fit into the federal government's policy of Indian self-determination.

In its early years, CERT obtained considerable funding from the Department of Energy (DOE), leading some critics to charge that CERT and the DOE were conspiring to exploit tribal resources. CERT also faced criticism that it pushed development too aggressively. Following a budget crisis in 1983, CERT curtailed its lobbying efforts and focused on providing technical assistance to tribes. Its efforts have contributed to changes in federal policy and expansion of tribal involvement in resource development. As of 2008 CERT had over fifty member tribes in the United States and four affiliates in Canada, and it continued to receive federal funding to support its activities. CERT's agenda promotes prudent energy development through tribal control and partnerships with industry.

See also *Oil and Gas; Self-Determination.*

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BIBLIOGRAPHY

- Ambler, Marjane. *Breaking the Iron Bonds: Indian Control of Energy Development*. Lawrence: University of Kansas Press, 1990.

Council Springs (1847), Treaty of

Shortly after Texas's annexation in December 1845, the administration of President James K. Polk dispatched commissioners Pierce M. Butler and M. G. Lewis to establish contact with Indian tribes in the state and to arrange for a conference to explain the new relationship between Texas Indians and the U.S. government. On May 13, 1846, Butler and Lewis convened a peace council at Council Springs with delegates representing the Comanches, Ionis, Anadarkos, Caddos, Lipans, Longwas, Keechis, Tawakonis, Wichitas, and Wacos. After two days of speeches and discussion, the assembled leaders signed a treaty that provided the following stipulations:

- 1) the Indians placed themselves under the protection of the U.S. government and acknowledged its right to regulate their trade;
- 2) the signatories agreed to deliver up captives (white, black, or Indian) and restore stolen horses;
- 3) Indians agreed to alert American authorities of any hostile designs directed against the United States on the part of themselves or their neighbors;
- 4) Indians guilty of murder or robbery were to be given up to federal authorities to stand trial, while U.S. citizens guilty of similar crimes committed against Indians were to be punished in accordance with state law;
- 5) the president received authorization to establish trading houses, agencies, and posts near popular Indian hunting grounds and encampments, both to protect the tribes and to ensure implementation of the treaty stipulations;
- 6) no person was allowed to sell or trade alcohol to Texas tribes;
- 7) the federal government agreed to send blacksmiths, teachers, and missionaries to serve in the Indian territories;
- 8) each side pledged to maintain the peace in perpetuity, and the federal government agreed to disburse \$10,000 worth of goods to the tribes.

On February 15, 1847, the Senate ratified the treaty and President Polk signed the document on March 8. The peace proved short-lived, however, and following the United States–Mexico War (1846–1848), hostilities between federal

troops and Texas Indians plagued the state for the next thirty years.

See also *Texas; U.S.-Mexican War (1846–1848).*

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BIBLIOGRAPHY

Winfrey, Dorman H., ed. *Texas Indian Papers*. Vol. 3, 1846–1859. Austin: Texas State Library, 1960.

Courts of Indian Offenses

The United States government created courts of Indian offenses in response to a case from the 1880s in which one Lakota tribal member, Crow Dog, killed a fellow tribal member, Spotted Tail. While the Lakotas had a traditional dispute resolution system that adequately provided restitution to the victim's family, the federal government was not satisfied with that outcome.

In 1883 the secretary of the interior initiated the creation of courts of Indian offenses under the Office of Indian Affairs (later renamed the Bureau of Indian Affairs), and the commissioner of Indian affairs imposed them on a number of tribes. The courts administered a code set forth by the secretary that was incorporated into the Code of Federal Regulations (CFR). From the beginning, these “CFR Courts” were based on a shaky legal foundation, as there was no statutory authorization for the establishment of such tribunals.

Although the current version of the authorizing regulation states that courts of Indian offenses exist to “provide adequate machinery for the administration of justice for Indian tribes in those areas of Indian country where tribes retain jurisdiction over Indians that is exclusive of state jurisdiction but where tribal courts have not been established to exercise that jurisdiction” (25 CFR § 11.1[b], 2007), the original wording of the regulation was more ominous. Even as recently as 1992, the same regulation identified the targeted tribes as those “in which traditional agencies for the enforcement of tribal law and custom have broken down [and] for which no adequate substitute has been provided under Federal or State law” (25 CFR § 11.1[b], 1992; emphasis added). Additionally, the courts of Indian offenses were imposed as “educational and disciplinary instrumentalities,” in which the federal government attempted to “improve and elevate the condition” of the Indians so that they could acquire “the habits, ideas, and aspirations which distinguish the civilized from the uncivilized man” (*United States v. Clapox*, 1888). Finally, these courts were also intended to

reduce the remaining power of traditional chiefs by creating a competing center of authority.

Courts of Indian offenses, unlike tribal courts, are subject to much broader federal review. Because decisions of the courts' appellate division are final and not subject to administrative appeals within the Department of the Interior, they are subsequently subject to federal judicial review, unlike tribal court decisions. Despite the questionable legal foundation of the courts and their lack of direct statutory authority, the constitutionality of their decisions has been upheld. In *Tillett v. Hodel* (1990), for example, the federal district court noted that Congress has repeatedly recognized the courts of Indian offenses and cited statutes delegating power to the president broad enough to establish them. Additionally, Congress has been appropriating funds for courts of Indian offenses since 1888.

Courts of Indian offenses do not have to be permanent, however, as a tribe can transition to a tribal court by passing a "law and order code which includes the establishment of a court system [that] has been adopted by the tribe in accordance with its constitution and by-laws or other governing documents" (25 C.F.R. § 11.1[b], 2007). The tribe would also need to notify the assistant secretary for Indian affairs.

By 2007 tribal courts vastly outnumbered courts of Indian offenses. According to the National Tribal Justice Resource Center, more than 275 tribes had established tribal courts, while only twenty-three courts of Indian offenses remained.

See also *Bureau of Indian Affairs; Ex Parte Crow Dog; Tribal Courts.*

Gavin Clarkson

BIBLIOGRAPHY

- Clarkson, Gavin. "Reclaiming Jurisprudential Sovereignty: A Tribal Judiciary Analysis." *University of Kansas Law Review*, vol. 50 (2002): 473–521.
- Hagan, William T. *Indian Police and Judges: Experiments in Acculturation and Control*. New Haven: Yale University Press, 1966.
- Pommersheim, Frank. "The Contextual Legitimacy of Adjudication in Tribal Courts and the Role of the Tribal Bar as an Interpretive Community: An Essay." *New Mexico Law Review*, vol. 18 (1988): 49–71.

Covenant Chain

For a period of one hundred years beginning in 1677, the Covenant Chain was central to diplomatic relations between the Haudenosaunees (Iroquois) and several affiliated tribes

and the British colonies. Over time, the chain came to represent a system of alliances and trading partnerships. The two sides viewed the chain differently, however. While the British sought legalistic agreements with the Iroquois Confederacy to ensure English sovereignty in the face of French interests, the Haudenosaunees saw the Covenant Chain as a way to negotiate and renew alliances, kinship, and social relations.

The chain was one of numerous metaphors employed in Haudenosaunee council oratory that allowed speakers to communicate complex ideas across the cultural divide. Other key metaphors included the path, the fire, the tree, and the house. Different Iroquoian words for "chain" mean something similar to "arms linked together," and the Covenant Chain was represented on wampum belts by highly stylized human figures with joined hands. According to Haudenosaunee oral tradition, the chain was first a rope and then an iron chain, but since these could easily break, it was later made of silver, and parties to councils worked to keep it shiny and free of dust. The Covenant Chain relationships with the British colonies were dissolved when the imperial authorities in London took control of diplomacy in the mid-1750s, but the chain remains a unique and symbolic form of diplomatic protocol for the Iroquoian tribes.

For Haudenosaunees in the early twenty-first century, the Covenant Chain consists of three links symbolizing friendship, good minds, and peace, and is represented on the Guswentha or Two Row Wampum belt by three rows of white beads that separate two double rows of purple beads. Every four years the Haudenosaunees extend an invitation to the U.S. president to polish the Covenant Chain.

See also *Great Britain, Indian Policy of; League of the Iroquois.*

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BIBLIOGRAPHY

- Beauchamp, William M. *Wampum and Shell Articles Used by the New York Indians*. Albany: University of the State of New York, 1901.
- Foster, Michael. "Another Look at the Function of Wampum in Iroquois-White Councils." In *The History and Culture of Iroquois Diplomacy*, edited by Francis Jennings, William N. Fenton, Mary A. Druke, and David R. Miller, 99–114. Syracuse: Syracuse University Press, 1985.
- Haan, Richard L. "Covenant and Consensus: Iroquois and English, 1676–1760." In *Beyond the Covenant Chain: The Iroquois and Their Neighbours in Indian North America, 1600–1800*, edited by Daniel Richter and James H. Merrell, 41–57. Syracuse: Syracuse University Press, 1987.
- Hamell, George. "Metaphor, Myth and Contemporary Iroquois History." *The Iroquoian*, vol. 9 (Fall 1984): 24–31.

Hill, Richard. "Oral Memory of the Haudenosaunee: Views of Two Row Wampum." In *Indian Roots of American Democracy*, edited by Jose Barreiro, 149–159. Ithaca, N.Y.: Akwe:kon Press, 1992.

Jennings, Francis. *The Ambiguous Iroquois Empire: The Covenant Chain Confederation of Indian Tribes with the New England Colonies from its Beginnings to the Lancaster Treaty of 1744*. New York: W. W. Norton & Co., 1984.

Crawford, T. Hartley

Thomas Hartley Crawford (1786–1863) served as commissioner of Indian affairs from 1838 until 1845. A Jacksonian Democrat, Crawford was elected to the 21st Congress in 1829 and reelected in 1831. He also served in the Pennsylvania House of Representatives from 1833 to 1834. In 1836 President Andrew Jackson appointed Crawford to investigate alleged fraud in the sales of Creek land allotments. Crawford's report in 1838 condemned the speculators who had been buying Indian land.

Crawford was appointed commissioner of Indian affairs by President Martin Van Buren. Hartley was the first commissioner who had previous experience with Indian affairs, and he had a reputation as a capable administrator. During his time in office he secured the removal of the Sac and Fox and Winnebago tribes from the Iowa Territory and also oversaw the removal of the Cherokees to the Indian Territory. He tried to speed up the removal and acculturation process for other tribes as well. For much of his tenure the United States was engaged in a bitter war with the Seminoles that culminated in their relocation.

Perhaps because of these experiences, Crawford attempted to find ways to develop better relations between Native Americans and whites in the West. He tried to improve educational opportunities for Indians by pushing for the establishment of manual labor schools. He also urged tribes to accept provisions instead of cash for their annuity payments and worked to reduce the sale and distribution of alcohol into Indian communities.

See also *Commissioner of Indian Affairs; Jackson, Andrew; Van Buren, Martin.*

Justin Corfield

BIBLIOGRAPHY

Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.

Satz, Ronald N. *American Indian Policy in the Jacksonian Era*. Lincoln: University of Nebraska Press, 1975.

Crazy Horse

Much about the life of Crazy Horse (c. 1840–1877), an Oglala Sioux, is unknown or based on information gathered long after his death. Called "our strange man" by the Lakotas, he was an eccentric loner probably born near Bear Butte in present-day South Dakota. His father, an Oglala medicine man, was also named Crazy Horse; his mother was probably the sister of the Brule leader, Spotted Tail.

As a youth Crazy Horse became known for his natural talent with horses and for his tendency to shun many traditional rites. When he was about fourteen, he had a vision of a man and a horse floating above the ground. In the vision he was told to wear a single feather and to tie a small stone behind his ear. He was told never to keep any belongings, but to always give away his possessions in order to help others. After this vision Crazy Horse dressed plainly and dedicated himself to protecting his people and providing for them.

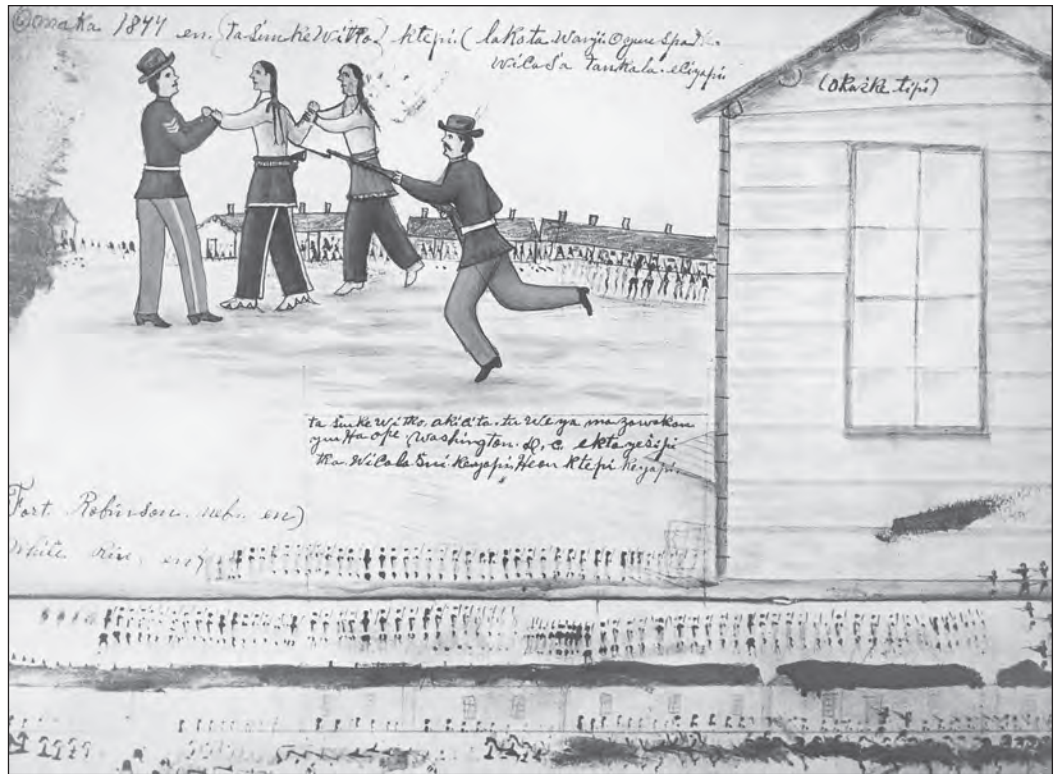
When he was about fifteen, Crazy Horse came upon the massacre of dozens of Brule Sioux on Bluewater Creek in Nebraska. Some believe that the shock of what he saw there made him a great warrior. Crazy Horse participated in several battles during what is known as Red Cloud's War, or the Bozeman Trail War (1865–1868). His courage during such engagements as the Fetterman Fight (1866) and the Wagon Box Fight (1867) helped establish his reputation as a leader in the resistance to American expansion and the reservation system.

His best documented and most heroic action was at the Battle of the Rosebud. During the summer of 1876, thousands of Lakotas and Cheyennes were gathered along the Little Bighorn River while a large contingent of soldiers moved west to fight them. On June 17 Crazy Horse, Sitting Bull, and close to one thousand warriors attacked General George Crook and his one thousand soldiers on Rosebud Creek. In hand-to-hand combat, the Indians fragmented Crook's defensive line and prevented him from launching a counterattack.

Eight days later Crazy Horse was present at the Battle of Little Bighorn, but his exact actions there are unknown. Most scholars believe he led the force of Indians that flanked George Armstrong Custer and surrounded his soldiers.

That winter Crazy Horse was responsible for the well-being of over one thousand people. Low on food and ammunition, in May of 1877 he agreed to surrender in exchange for his own reservation. Once he arrived at Fort Robinson in Nebraska, however, Crazy Horse became the

The Native American artist Amos Bad Heart Buffalo depicts the death of Crazy Horse, an Oglala Sioux chief. Crazy Horse was caught in a trap after arriving at a fort and was killed by a soldier with a bayonette.



subject of rumor and bitter jealousy among the Indians who had already surrendered. On September 6, 1877, he came into the fort with the understanding that the commander wished to speak with him. Instead, the plan was to arrest him and take him to a prison in Florida. Realizing he was being led towards the jail, Crazy Horse turned to run. A Lakota policeman grabbed him from behind, and a soldier bayoneted the warrior. He died a few hours later.

Crazy Horse is now often viewed as a symbol of Native American resistance.

See also *Bozeman Trail War (1865–1868)*; *Crook, George*; *Custer, George Armstrong*; *Fetterman Massacre*; *Little Bighorn, Battle of*.

Alan Boye

BIBLIOGRAPHY

- Ambrose, Stephen E. *Crazy Horse and Custer: The Parallel Lives of Two American Warriors*. New York: Doubleday, 1975.
- McMurtry, Larry. *Crazy Horse*. New York: Viking, 1999.
- Sandoz, Mari. *Crazy Horse, Strange Man of the Oglala Sioux*. New York: Hastings House, 1942.

Crazy Snake Uprising (1901)

The Crazy Snake Uprising was one of a number of rebellions of Indians against United States efforts to force their

assimilation into mainstream society by allotting their lands and abolishing their traditional governments. Chitto Harjo ("Crazy Snake") was a Creek leader at the time of the termination of the Creek Nation by the Curtis Act of 1898. The act, intended to incorporate tribes into the United States and release their valuable lands for non-Indian settlement, ended the governmental and legal powers of the Five Tribes (the Creeks, Cherokees, Choctaws, Chickasaws, and Seminoles), who had been removed from the South and settled in present-day eastern Oklahoma earlier in the nineteenth century. The act further allotted Creek lands to individual Creeks and released the remaining lands for sale to whites.

The various removal treaties negotiated between the U.S. government and the Creeks, including the Treaty with the Creeks negotiated in Washington on February 14, 1833, had guaranteed them their lands in what is present-day Oklahoma forever and in fee simple. The preservation of Creek culture was, in the Indians' view, dependent on the recognition of these treaty rights. Traditional Creeks refused to recognize the abolition of the treaties and their sovereignty as an Indian nation. A large number of chiefs met and reaffirmed their traditional laws and government. Accordingly, they implemented their own government in place of the former one that had agreed to the Curtis Act.

They appointed judges and elected a chief, a second chief, a twelve-member cabinet, members of a House of Warriors and a House of Kings, and two houses of a legislature. The dissident chiefs also sent out light horsemen to post and enforce a new law prohibiting the employment of, and the leasing of land to, those in the Creek Nation who complied with the U.S. government. The law provided a fine of \$100 for its violation and up to fifty lashes. The light horsemen whipped an unknown number of Creeks for its violation. The rebellion directly asserted traditional Creek sovereignty and challenged the imposition of American law on the Creek nation.

In March 1901 a federal grand jury in Muskogee indicted 253 Creeks, including Crazy Snake, alleging that they had “willfully and feloniously formed a certain government . . . purporting to be the legal and lawful government of the Muskogee (Creek) tribe” (Sidney L. Harring, *Crow Dog’s Case: American Indian Sovereignty, Tribal Law, and United States Law in the Nineteenth Century*, 1994). This indictment affected about 10 percent of all adult Creek males at the time and indicated the widespread nature of the revolt. Facing the overpowering strength of the U.S. government and not willing to resort to armed resistance, those indicted submitted to U.S. authority and were soon pardoned.

In 1907, when Oklahoma was admitted to the Union as a state, Crazy Snake and other Creeks reassembled on Hickory Ground, traditional Creek council grounds, to reassert their claim to sovereignty. They remained there for two years until another rebellion, the Smoked Meat Rebellion, resulted in an attack by state authorities. An attempt to arrest Crazy Snake led to a gun battle and the death of two deputies. Crazy Snake, wanted for murder, fled deep into the hills of the Creek Nation where he lived the last three years of his life a hunted man protected by traditional Creek society.

Indians resisted the imposition of American law in many different ways, weighing the options available to them to defend their sovereignty and their way of life. The Crazy Snake Uprising was unique in that it carefully sought to replicate the political and legal institutions lost under the Curtis Act. The rebellion honored Creek law and attempted to use it to preserve the Creek Nation.

See also *Assimilation and Acculturation*; *Curtis Act of 1898*; *Sovereignty*.

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BIBLIOGRAPHY

- Bolster, Mel. “The Smoked Meat Rebellion.” *Chronicles of Oklahoma*, vol. 31 (Spring 1953): 37–55.
- Debo, Angie. *The Road to Disappearance: A History of the Creek Indians*. Norman: University of Oklahoma Press, 1941.
- . *And Still the Waters Run: The Betrayal of the Five Civilized Tribes*. Norman: University of Oklahoma Press, 1940.
- Harring, Sidney L. *Crow Dog’s Case: American Indian Sovereignty, Tribal Law, and United States Law in the Nineteenth Century*. New York: Cambridge University Press, 1994.
- Opler, Morris. “The Creek Town and the Problem of Creek Indian Political Reorganization.” In *Human Problems and Technological Change*, edited by Edward Spicer, 165–180. New York: Russell Sage Foundation, 1952.

Creek Civil War (1813–1814)

The Creek Civil War (1813–1814) touches on important themes in American Indian history, including internal factionalization, accommodation versus resistance, nativist religious revival, and federal Indian policy in the Southeast.

The war started out as an internal conflict, largely between Upper Creek and Lower Creek settlements. But after a group of nativist Red Stick Creeks from the lower towns attacked Fort Mims (in present-day Alabama) in August 1813, killing some five hundred Americans, the United States entered the dispute. U.S. troops under the leadership of Gen. Andrew Jackson, with the help of Creek, Choctaw, and Cherokee allies, soundly defeated the Red Sticks. The resulting Treaty of Fort Jackson (1814) stripped the Creeks of their lands in the largest cession ever engineered in the southeast.

The Creeks, also known as the Muskogees, originally lived in present-day Alabama, Georgia, and northern Florida. At the beginning of the nineteenth century, the Creek Nation comprised some twenty thousand people living in fifty towns, mainly in what is now Alabama and Georgia. The towns were roughly divided into thirty-nine Upper Creek towns and eleven Lower Creek towns. The Upper Creeks congregated around the Coosa and Tallapoosa Rivers in Alabama. The Lower Creeks lived near the Flint and Chattahoochee Rivers in western Georgia. The upper towns were to the west of the lower (that is, up the river). The English traders who traveled to the Creek territory from Charleston during the colonial era were probably responsible for the “upper-lower” designations.

Causes of the Civil War

When war broke out among the Creeks in 1813, the warriors known as Red Sticks fought against other Creeks,

Americans, and a contingent of Cherokees and Choctaws who were allied with the United States. Historians have debated why the Red Sticks went to war. They agree that most of the Red Sticks resided in the Upper Creek villages, while many of those who sided with the Americans and even fought against the Red Sticks were from the Lower Creek towns. Historians differ, however, over why the Upper and Lower Creek towns diverged. Some point to the growing cultural and economic differences between the Upper and Lower Creeks. Although there were exceptions, many of the Lower Creek towns favored acculturation, including sedentary farming, market exchange, and the acquisition of wealth. Some of the Lower Creeks even owned slaves. Many Upper Creeks rejected acculturation and continued to rely on hunting, gathering, and farming. According to the historian Claudio Saunt, material inequities emerged between poor and wealthy Indians, with the Lower Creeks accumulating more wealth than their Upper counterparts. When coupled with cultural and religious accommodation to Euro-American ways, these inequities created tension between different factions of Creeks.

Indian agent Benjamin Hawkins exacerbated these growing divisions. Hawkins arrived among the Creeks in 1796 and immediately implemented a civilization program. Federal Indian policy at this time was directed at “civilizing” Indians—that is, convincing them to give up their “savage” or “barbarous” culture and religion. Once Indians adopted “civilized” ways—including speaking English, adopting Anglo-American gender roles, and becoming settled farmers—they could become part of American society. Hawkins embraced this policy, and immediately set up a model farm at his agency for Creek men. He encouraged Creek women to spin and weave. Hawkins made considerable inroads with his program among the Lower Creeks, whereas many Upper Creeks rejected his ideas. According to the historian Benjamin W. Griffith Jr., the principal division in Creek society was between those who followed Hawkins and those who bitterly resisted his acculturation program.

Other historians, however, including Frank L. Owsley, point to nativist conflict as the chief cause of the Creek Civil War. In 1811 Tecumseh, a Shawnee, arrived among the Creeks, spreading his message of cultural, religious, and military resistance to whites. Many Upper Creeks listened to his message and vowed to cast out American influence, return to their cultural and religious values, and fight for their sovereignty. After Tecumseh left, Creek prophets continued to spread his message, including Josiah Francis (Hildis Hadjo),

Captain Isaacs, and Peter McQueen. These Creek prophets, especially Francis, became the most ardent supporters of war. The Lower Creek towns, however, tended to advocate peace and accommodation and largely ignored the prophets.

Although cultural, economic, and religious factors separated the Upper and Lower Creek towns, these divisions were not absolute. Indeed, in the months leading up to the civil war, many Red Stick warriors focused their ire on Big Warrior, a wealthy chief at Tuckabatchee, an Upper Creek village, who frequently sided with Hawkins. Just before the outbreak of the civil war, several Creeks killed American homesteaders, and Hawkins demanded that the Creeks capture those responsible. A contingent of Creeks associated with Big Warrior carried out Hawkins’s order, executed the insurgents, and took refuge at Tuckabatchee. These executions angered many Creeks, especially young warriors, who then laid siege to Tuckabatchee. After this incident, the Creek Civil War began. Red Sticks burned Creek plantations, killed livestock, and attacked illegal squatters living on Creek lands.

The United States Enters the War

Until the summer of 1813, the war remained between the Creeks. In July, however, the United States entered the fray. On July 27, 1813, a group of Red Sticks traveled to Pensacola to obtain weapons and ammunition from the Spanish. On the way home, the Red Sticks were attacked by a frontier militia at Burnt Corn Creek. In that battle, two Americans and some twenty Creeks were killed, and about twenty Americans and many Creeks were wounded. The surviving Americans fled to several hastily constructed stockades, including Fort Mims.

On August 30, 1813, about one thousand Red Sticks attacked Fort Mims in retaliation for Burnt Corn Creek. When the fighting subsided, the Red Sticks emerged victorious. Although the Red Sticks lost about a hundred warriors, they killed all of the Mississippi soldiers and about fifty Euro-American and Creek men stationed at the fort. Several historians argue that because Creeks were killed in the fort, the war was an internal conflict that should not have involved outsiders. However, around the country Americans demanded vengeance with cries of “Remember Fort Mims.” Newspapers across the region published sensationalized accounts of the “largest Indian massacre” in U.S. history, and the number of whites killed at Fort Mims grew with each retelling.

The federal government, finding it could not ignore the “Fort Mims massacre,” then entered the Creek Civil War. In

the fall of 1813, Georgia, Tennessee, and Mississippi Territory militias commanded by Gen. Andrew Jackson, joined by Choctaw and Cherokee allies, entered Creek territory to attack the Red Sticks. During the six months of war that followed, Jackson and his troops laid waste to much of the Upper Creek region. By the time the war ended, historians estimate that some three thousand Creeks had lost their lives—about 15 percent of the total population. Moreover, crops and towns across the Upper Creek region were destroyed.

Although this conflict saw many small engagements, three battles stand out as important to the overall outcome of the war. One of the first battles occurred on November 3, 1813, at Tallushatchee, a Creek village sympathetic to the Red Sticks. Troops led by Gen. John Coffee attacked the village and killed many of the Red Sticks who had taken refuge there. A few days later, on November 9, 1813, the Red Sticks lost again at the Battle of Talladega. After these initial battles, there was a break in the fighting. During the months that followed, many of Jackson's troops deserted, but he managed to gather reinforcements, which allowed him to inflict a final defeat on the Creek warriors at the third notable battle, which broke out at Horseshoe Bend on March 27, 1814. With the help of Lower Creek and Choctaw and Cherokee allies, Jackson's troops killed 800 Creeks and captured 350 Creek women and children. After the Battle of Horseshoe Bend, the remaining Red Stick survivors fled to the Seminoles or to the Gulf Coast. All the Creek prophets were killed or fled from Creek territory.

On August 9, 1814, Jackson forced thirty-five Creeks to sign the Treaty of Fort Jackson. Under this treaty, the Creeks ceded over twenty-three million acres, or over two-thirds of Creek lands, to the Americans. Ironically, almost all of the land in this single largest land cession in the southeast belonged to the Lower Creeks, who had embraced "civilization," sided with the Americans, and helped Jackson win at the Battle of Horseshoe Bend. In the years that followed, the United States made over \$11 million from the sale of Creek land ceded in the Treaty of Fort Jackson.

The Creek Civil War touched on themes played out in other locales throughout the southeast, and indeed, across the United States at various times. Like the Creeks, tribes around the nation had to deal with cultural, religious, and economic factionalization. Indians were divided over whether to resist white encroachment on their lands or acquiesce and hope to garner positive treaty terms. Nativist religious leaders inspired resistance among the Creeks; other

such religious movements motivated tribes to resist throughout the rest of the nineteenth century. Creek neighbors in the southwest, including the Cherokees, Choctaws, Chickasaws, and Seminoles, faced their own conflicts with white settlers, states who wanted their land and resources, and unfair treaties. Jackson's treatment of the Creeks (both friend and foe) served as a worrisome preview of the Indian policy he would follow when he became president.

See also *Assimilation and Acculturation; Civilization Program; Fort Jackson (1814), Treaty of; Hawkins, Benjamin; Jackson, Andrew; Second Creek War; Tecumseh.*

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BIBLIOGRAPHY

- Davis, Karl. "Remember Fort Mims": Reinterpreting the Origins of the Creek War." *Journal of the Early Republic* 22 (Winter 2002): 611–636.
- Dowd, Gregory Evans. *A Spirited Resistance: The North American Indian Struggle for Unity, 1745–1815*. Baltimore: Johns Hopkins University Press, 1993.
- Green, Michael D. *The Politics of Indian Removal: Creek Government and Society in Crisis*. Lincoln: University of Nebraska Press, 1982.
- Griffith, Benjamin W., Jr. *McIntosh and Weatherford, Creek Indian Leaders*. Tuscaloosa: University of Alabama Press, 1988.
- Hassig, Ross. "Internal Conflict in the Creek War of 1813–1814." *Ethnohistory* 21 (Summer 1974): 251–271.
- Martin, Joel. *Sacred Revolt: The Muskogees' Struggle for a New World*. Boston: Beacon Press, 1993.
- Owsley, Frank L. "Prophet of War: Josiah Francis and the Creek War." *American Indian Quarterly* 9 (Summer 1985): 273–293.
- . *Struggle for the Gulf Borderlands: The Creek War and the Battle of New Orleans, 1812–1815*. Gainesville: University Presses of Florida, 1981.
- Remini, Robert V. *Andrew Jackson and His Indian Wars*. New York: Viking, 2001.
- Saunt, Claudio. "Taking Account of Property: Stratification among the Creek Indians in the Early Nineteenth Century." *William and Mary Quarterly* 57 (October 2000): 733–760.

Crime, Regulating in Indian Country

One of the primary tasks of a government is to control crime by making laws regulating behavior and enforcing those laws through the criminal justice system. The general rule is that each government has the authority to regulate crime within its territory and only within its territory. Thus, California officials can regulate crime within the state, but the California legislature cannot pass a law making something illegal in Virginia, or a California prosecutor cannot file charges against someone who committed a crime in Texas.

This general rule does not apply to regulating crime in Indian Country. “Indian Country” is the legal term used to describe the territorial boundaries of an Indian tribe. The term is defined by federal statute and includes all reservations, dependent Indian communities, and Indian-owned allotments. Tribal governments do not possess authority to regulate the behavior of all persons in their territory and cannot prosecute everyone who commits a crime there. Instead, a series of statutes and court decisions have created a complex set of rules governing who can regulate crime in Indian Country.

The issue can perhaps be approached most easily by exploring how the system created by those laws operates in practice and how authority to regulate crime in Indian Country is allocated. The determination of which government—federal, state, and/or tribal—possesses authority to regulate crime in Indian Country depends on three primary factors: the identity of the defendant, the identity of the victim, and the nature of the crime charged. Accordingly, the obvious threshold question is what it means to be an Indian for the purposes of criminal jurisdiction. Although no federal statute defines Indian for these purposes, several court decisions have articulated a well-accepted test that consists of two requirements. To be an Indian for purposes of regulating crime in Indian Country, a person must first possess some Indian heritage—that is, some degree of Indian blood. Second, the person must be recognized as an “Indian,” which is usually interpreted to mean that the person must be a member of a federally recognized tribe.

Tribal Governments

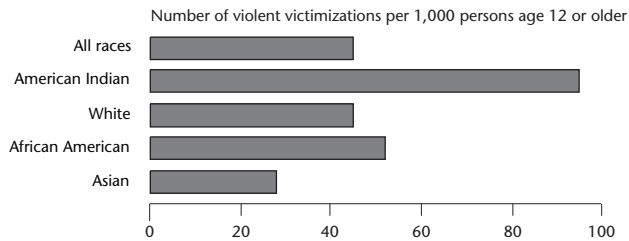
A tribal government has the authority to prosecute an Indian who commits a crime against another Indian in Indian Country but does not, with a few minor exceptions, have the authority to prosecute a non-Indian for a crime committed in Indian Country.

Tribal governments existed before Europeans arrived on the North American continent, and, as governments, they wielded the authority to deal with individuals whose behavior was deemed unacceptable. The U.S. Supreme Court recognized and affirmed this power in its 1883 decision in *Ex Parte Crow Dog*, in which the Court ruled that tribal governments possess the inherent sovereignty to regulate crime committed by Indians in Indian Country. The case stemmed from an incident in which one member of the Brule Sioux tribe, Crow Dog, killed another Indian named Spotted Tail. The tribe handled the matter according to its tradition,

which included requiring Crow Dog to pay reparations to Spotted Tail’s family, but did not include executing Crow Dog. The United States prosecuted Crow Dog, but the U.S. Supreme Court ruled that the federal government lacked the ability to prosecute an Indian for a crime committed against another Indian in Indian Country.

Although current law continues *Crow Dog*’s holding, the rule has not always held true. From *Crow Dog* until its 1978 decision in *U.S. v. Wheeler*, the Supreme Court divided the populace into two categories: Indians and non-Indians. Although tribal governments could regulate crime committed by Indians in Indian Country, the Supreme Court did not expressly rule until 1978 on the authority of tribal governments to prosecute non-Indians. Beginning with *Wheeler*, the Court divided the populace into three categories: non-Indians, member Indians (those who were members of the tribe bringing the criminal charges), and non-member Indians (those who were members of other tribes). *Wheeler* declared that tribes possess inherent authority to prosecute member Indians. In its 1990 decision in *Duro v. Reina*, the Supreme Court held that tribes lacked authority to prosecute non-member Indians for crimes committed in Indian Country. In response, Congress quickly passed a statute known as the *Duro fix* amendment, which declared that tribes do possess inherent criminal jurisdiction over all Indians who commit crimes in Indian Country. The Supreme Court upheld the statute in its 2004 decision in the case of *U.S. v. Lara*. Consequently, tribal governments may once again prosecute any Indian who commits a crime in Indian Country.

As a result of the U.S. Supreme Court’s 1978 decision in *Oliphant v. Suquamish Indian Tribe*, tribal governments lack the authority to prosecute non-Indians. *Oliphant* involved two separate cases, both of which involved defendants who were non-Indians but lived on the Suquamish reservation. One defendant was accused of assaulting a tribal police officer, and the other defendant led police on a high-speed car chase that ended when he crashed into a tribal police car. The U.S. Supreme Court reviewed the history of the federal government’s relationship with tribal governments and reached the conclusion that tribal governments had at some point lost the ability to use criminal law to regulate the behavior of non-Indians in Indian Country. The Court’s decision was highly controversial, but neither Congress nor the Court had taken affirmative steps to change that decision as of the early twenty-first century.

FIGURE 1: Violent Victimization*

* National Crime Victimization Survey annual average rates and percentages for 1992–2001 (does not include murder).

Source: Bureau of Justice Statistics. *A BJS Statistical Profile, 1992–2002: American Indians and Crime*. U.S. Department of Justice. <http://www.ojp.usdoj.gov/bjs/pub/pdf/aic02.pdf>

U.S. government reports show that American Indians experience violent crime at a rate twice that of the U.S. population.

This same division, focusing on whether the defendant is Indian or non-Indian, governs a tribe's ability to regulate so-called victimless crimes. Victimless crimes include matters such as gambling, possession of drugs, prostitution, and reckless driving. Many governments have criminalized such behavior based on societal norms that declare it unacceptable, even if no victim is readily identifiable in the same way as the victim of an assault or a robbery. Tribal governments may prosecute Indians for victimless crimes but may not prosecute non-Indians.

In investigating and prosecuting crimes, tribal governments must follow the provisions of the Indian Civil Rights Act of 1968, and one of those provisions declares that in sentencing a defendant, tribes may not impose a sentence of more than one year's imprisonment and/or more than a \$5,000 fine. These limitations are per offense, so a defendant convicted of multiple offenses may be sentenced to the maximum punishment for each conviction.

The Indian Civil Rights Act also permits a defendant to challenge a sentence by petitioning a federal court to issue a writ of *habeas corpus*. The purpose of such a petition is to request that a federal court correct any errors in the tribal proceeding that violated the individual rights guaranteed to the defendant by the Indian Civil Rights Act. A federal court may issue a writ of *habeas corpus* only if it finds an error that violated the act and which had a substantial effect on the outcome of the case. Federal courts may not review tribal proceedings for errors of tribal law. A petition for a writ of *habeas corpus* may be filed only by a person who is in the custody of the tribal government and who has first exhausted his or her tribal remedies.

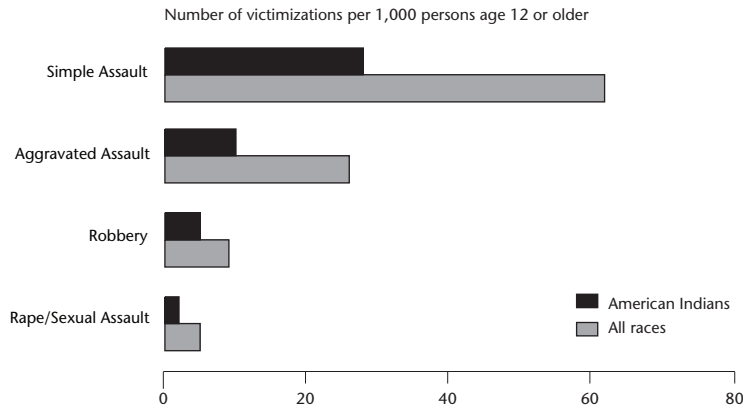
Federal Government

The federal government may regulate crime in Indian Country only when authorized to do so by a specific statute. These statutes fall into two categories: statutes of general applicability and statutes specifically relating to behavior in Indian Country.

Statutes of general applicability are ones that Congress clearly intended to apply everywhere in the United States, such as mail fraud or assault on a federal officer. The federal government may always prosecute a defendant accused of violating one of these laws within its borders; it does not matter whether the violation occurred inside or outside Indian Country.

Congress has also enacted a number of statutes targeted at Indian Country. Some criminalize specific behavior, such as embezzling from a tribal organization or domestic violence. Two other statutes, the Indian Country (or General) Crimes Act of 1817 and the Major Crimes Act of 1885, grant the federal government more far-reaching authority to regulate crime in Indian Country, but do not authorize a comprehensive ability to regulate all such crime.

The Indian Country Crimes Act gives the federal government the ability to regulate crime in Indian Country, but proceeds to give three exceptions to this power. In the first exception, the act explicitly provides that the statute does not apply to crimes committed by one Indian against the person or property of another Indian. In a series of cases, the U.S. Supreme Court extended this exception to apply to crimes committed by one non-Indian against the person or property of another non-Indian. Thus, the act applies only to interracial crimes.

FIGURE 2: American Indians and Crime, 1992–2001

Source: Bureau of Justice Statistics. *A BJS Statistical Profile, 1992–2002: American Indians and Crime*. U.S. Department of Justice. <http://www.ojp.usdoj.gov/bjs/pub/pdf/aic02.pdf>

Various sources have begun collecting data on crime in Indian Country. These statistics indicate that Native Americans experience violence at a rate of more than twice that of people in the United States as a whole.

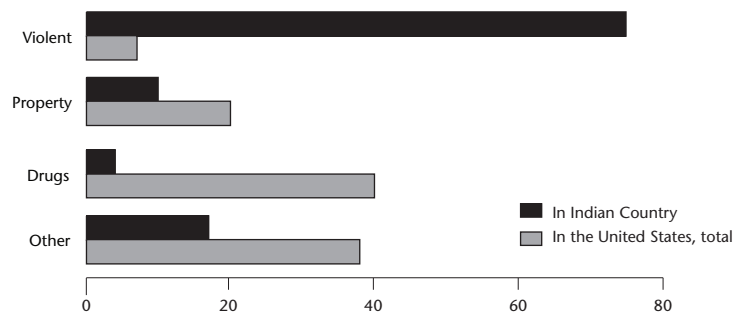
The act also contains language declaring that the statute does not grant the federal government authority to prosecute an Indian for a crime if the Indian was already punished by the local law of the tribe. However, if the crime is one listed in the Major Crimes Act (discussed below), or violates a federal statute of general applicability, the federal government may still prosecute.

Finally, the Indian Country Crimes Act also explicitly provides that it does not apply, and does serve as a basis of federal authority to regulate crime in Indian Country, when a treaty stipulates that the tribe retain exclusive authority to regulate crime. It is unclear whether any such treaties still exist.

The Major Crimes Act was enacted by Congress in 1885 in reaction to the Supreme Court's decision in *Ex Parte Crow Dog*. At the time of the *Crow Dog* decision, the only potentially relevant statute providing the federal government with the ability to prosecute *Crow Dog* was the Indian Country Crimes Act. Because that statute specifically declares that it does not provide the federal government the authority to prosecute Indian-on-Indian crime in Indian Country, no law existed to authorize the federal prosecution. The goal of the Major Crimes Act was to overturn the *Crow Dog* decision and ensure that the federal government had the necessary authority to prosecute Indians who commit serious crimes in Indian Country. The statute confers on the federal gov-

ernment the ability to prosecute an Indian who commits one of the offenses listed in the statute, which include, among others, murder, manslaughter, sexual abuse, arson, and burglary. The U.S. Supreme Court upheld the Major Crimes Act in 1886, in the case of *U.S. v. Kagama*, declaring that Congress possesses plenary (complete) power over Indian affairs and thus had the authority to enact the Major Crimes Act.

The federal government may also possess the ability to prosecute victimless crimes that occur in Indian Country, but again, some statute must exist authorizing the federal government to do so. If a defendant's actions violate a federal statute of general applicability, that certainly authorizes federal prosecution. The Major Crimes Act does not support such prosecutions, as the language of the statute authorizes prosecutions of Indians who commit crimes against the person or property of an Indian or other person. This provision has been interpreted to require a victim. The Indian Country Crimes Act, however, has been interpreted as authorizing the prosecution of both Indians and non-Indians for federal crimes, including victimless crimes. The statute, however, requires that the victim and defendant be of different races. As a consequence, courts have held that in the case of victimless crimes, non-Indian defendants may be prosecuted only if the crime does not implicate an Indian or Indian interest, and Indian defendants may be prosecuted only if the crime does not implicate a non-Indian or the

FIGURE 3: Percentage of Suspects Investigated by U.S. Attorneys Offices, by Offense

Sources: BJS Federal Justice Statistics Program; Executive Office for U.S. Attorneys General, Central System File, fiscal year 2000. Bureau of Justice Statistics. *A BJS Statistical Profile, 1992–2002: American Indians and Crime*. U.S. Department of Justice. <http://www.ojp.usdoj.gov/bjs/pub/pdf/aic02.pdf>

Federal prosecutors may choose which cases to pursue. A Syracuse University database reveals that federal prosecutors have refused to file charges in 62 percent of the cases arising in Indian Country. The federal government has not released specific data.

interests of a non-Indian. Provided the interracial scheme of the statute is not disrupted, courts have interpreted it to authorize the federal government to prosecute victimless crime occurring in Indian Country.

State Governments

One of the fundamental tenets of Indian law and federal Indian policy is that Congress possesses plenary power to regulate Indian affairs, and that, generally speaking, states lack the ability to regulate Indians in Indian Country. This general prohibition also applies in the context of crime control, and means that states may not prosecute Indians who commit crimes in Indian Country. This applies regardless of whether the crime was committed against an Indian or a non-Indian.

Before exploring this rule further, it should be noted that the general rule assumes that no special statute exists conferring additional jurisdiction on a state. Two examples of these special statutes exist: Public Law 280 and settlement acts. Public Law 280 is a federal statute granting several states (including Alaska, California, Minnesota, Nebraska, Oregon, and Wisconsin) the authority to, among other things, regulate crime in Indian Country just as it does elsewhere in the state. Public Law 280 does not deprive tribal governments of the ability to regulate crime; rather, it gives concurrent authority to the state government.

Settlement acts are federal laws that resolved land disputes and similar claims, such as with tribes in Kansas, Maine, and

New York. Some settlement acts conferred additional jurisdiction on a state. Thus, when exploring who has the authority to regulate crime in a specific Indian Country, one must first determine whether a special statute exists regarding that territory.

If no special statute exists, the general rule applies, which provides that states possess the authority to regulate crime committed by a non-Indian against a non-Indian in Indian Country, and only such a crime. The issue of victimless crimes is more controversial, since permitting such prosecutions means allowing the state to set normative behavioral rules for the territory of a separate sovereign. Most courts, however, permit states to prosecute victimless crimes committed in Indian Country by non-Indians.

States have jurisdiction to prosecute crimes between non-Indians that occur in Indian Country. In a series of cases between 1882 and 1946, the U.S. Supreme Court held that when an Indian is neither the defendant nor the victim, Indian interests are not implicated and state jurisdiction is therefore proper.

Double Jeopardy

Clearly, issues arise in which more than one government possesses the ability to prosecute the same defendant for the same activity. This overlap is not unique to Indian law. Often a state and the federal government will both possess the ability to prosecute the same person for the same action, such as drug trafficking or kidnapping that crosses state lines. The

Fifth Amendment to the U.S. Constitution provides that no person may be twice put in jeopardy for the same actions. This Double Jeopardy Clause has been interpreted to mean that neither the state nor federal government may prosecute the same person twice for the same crime.

Under a principle known as the Dual Sovereignty Doctrine, however, the U.S. Supreme Court has ruled that the Double Jeopardy Clause does not prevent two governments from each prosecuting the same defendant for the same action. The theory behind the doctrine is that the defendant's activity was a separate offense against each sovereign, and is thus two separate “crimes.” Accordingly, two prosecutions do not count as multiple prosecutions for the same offense. For the doctrine to apply, each of the two prosecuting governments must derive its sovereignty from a separate and independent source. The federal government and the state governments are separate sovereigns. Within a state, however, various other governments may exist, such as city governments and county governments. These subdivisions derive their sovereignty from the state, and thus do not satisfy the prerequisites of the doctrine. Thus, a kidnapper who snatches his victim in Oklahoma City, Oklahoma, and transports him to Little Rock, Arkansas, where he kills him, may be prosecuted by the state of Oklahoma and the state of Arkansas, but cannot be prosecuted by the Oklahoma City district attorney and the Little Rock district attorney.

In the context of crime in Indian Country, the Fifth Amendment's Double Jeopardy Clause restricts the federal and state governments from multiple prosecutions of the same defendant (subject to the Dual Sovereignty Doctrine), and the Indian Civil Rights Act contains a similar provision restricting a tribal government from twice prosecuting the same defendant for the same crime.

The case of *Wheeler* raised the question of whether the Dual Sovereignty Doctrine extended to tribal governments. Wheeler, a member of the Navajo Nation, had been convicted in Navajo tribal court of contributing to the delinquency of a minor. The federal government filed statutory rape charges arising out of the same incident, and Wheeler argued that double jeopardy barred the federal prosecution. The U.S. Supreme Court rejected Wheeler's argument and ruled that tribal governments derive their sovereignty from a separate source independent of federal and state governments. Consequently, the Court ruled that the Dual Sovereignty Doctrine applied and that federal law does not limit multiple prosecutions of the same offender by tribal, federal, and state governments.

See also *Ex Parte Crow Dog*; *Indian Civil Rights Act*; *Indian Country*; *Major Crimes Act of 1885*; *Oliphant v. Suquamish Indian Tribe*; *Public Law 280*; *Sovereignty*; *United States v. Kagama*; *United States v. Lara*.

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BIBLIOGRAPHY

- Chaney, Christopher B. “The Effect of the United States Supreme Court's Decisions during the Last Quarter of the Nineteenth Century on Tribal Criminal Jurisdiction.” *BYU Journal of Law and Public Policy*, vol. 14 (2000): 173–189.
- Clinton, Robert N. “Criminal Jurisdiction Over Indian Lands: A Journey through a Jurisdictional Maze.” *Arizona Law Review*, vol. 18, no. 3 (1976): 503–583.
- Harring, Sydney. “Crow Dog's Case: A Chapter in the Legal History of Tribal Sovereignty.” *American Indian Law Review*, vol. 17 (1989): 191–239.
- U.S. Department of Justice. “Jurisdiction over ‘Victimless’ Offenses Committed By Non-Indians.” Memorandum from Office of Legal Counsel, March 21, 1979.
- Washburn, Kevin K. “American Indians, Crime and the Law.” *Michigan Law Review*, vol. 104 (2006): 710–777.

Crockett, David “Davy”

David Crockett (1786–1836) was born in Green County, Tennessee, and raised on the Tennessee frontier. Due to his hunting, scouting, and Indian fighting skills, Crockett gained a reputation as the “King of the Wild Frontier.” During the Creek Civil War (1813–1814), he enlisted in the Tennessee militia following the massacre of settlers at Fort Mims, Alabama, by Creek Indians. Serving in the Second Regiment of Volunteer Mounted Riflemen, he participated in the attack on the Indian town of Tallushatchee, Alabama, on November 3, 1813. The battle's retributive nature and extreme violence against the trapped Creeks helped to shape Crockett's pro-Indian sociopolitical ideology throughout the rest of his life.

Capitalizing on his “common man” frontier persona, Crockett won election to the United States House of Representatives in 1826, 1828, and 1832. As a congressional representative, he openly opposed President Andrew Jackson's policies toward Indians. He strongly criticized the removal of eastern tribes from their lands under the 1830 Indian Removal Act, a position that caused his reelection defeat in 1830.

After regaining a congressional seat in 1832, Crockett was defeated again in 1834. He then left Washington to join the Texas Revolution (1835–1836). At the Battle of the Alamo, tradition holds that the attacking army of Mexican president Antonio López de Santa Anna killed Crockett and his fellow defenders in the early morning assault of May 6, 1836.

However, recent research suggests that Crockett and a handful of defenders survived, only to be summarily executed after the battle by Santa Anna.

See also *Creek Civil War (1813–1814)*; *Indian Removal Act*; *Jackson, Andrew*; *Removal*.

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BIBLIOGRAPHY

- Davis, William C. *Three Roads to the Alamo: The Lives and Fortunes of Davy Crockett, James Bowie, and William Travis*. New York: Harper-Collins Publishers, 1998.
- Derr, Mark. *The Frontiersman: The Real Life and Many Legends of Davy Crockett*. New York: Morrow, 1993.
- Levy, Buddy. *American Legend: The Real-Life Adventures of David Crockett*. New York: G. P. Putnam's Sons, 2005.
- Winders, Richard Bruce. *Davy Crockett: The Legend of the Wild Frontier*. New York: PowerPlus Books, 2003.

Crook, George

George Crook (1828–1890) was a career army officer who served in the Civil War (1861–1865) but is best known for his role in the United States–Indian Wars (1848–1891). General William T. Sherman once called him the greatest Indian fighter of all. After graduating from the United States Military Academy at West Point, Crook served in Oregon and northern California, where he fought in the Yakama War (1855–1858) and Rogue River War (1855–1856). He returned east when the Civil War broke out and accepted a commission in the Union Army. He fought at the battles of Antietam, Chickamauga, and in the Shenandoah campaign. He eventually achieved the rank of major general of volunteers.

After the war Crook received a commission to major general in the regular army but reverted to the permanent rank of lieutenant colonel. He was assigned to frontier duty in the Pacific Northwest. His campaign against the Northern Paiutes so impressed President Ulysses S. Grant that he put Crook in command of the Arizona Territory in 1871 and assigned him the task of pacifying the Chiricahua Apaches. Crook's use of Apache scouts, his relentless pursuit of the Indians, and his willingness to negotiate proved successful against the Apaches and became his trademarks. In 1872 the Apaches were on reservations, Arizona Territory was at peace, and Crook was promoted to brigadier general.

In 1875 Crook took command of the Department of the Platte, a large military district that covered what is present-day Iowa, Nebraska, Utah, and sections of the Dakotas and Montana. On March 17, 1876, his troops attacked a Northern Cheyenne and Lakota camp on the Powder River

in Montana Territory. Although clumsily executed, it was the opening battle of the ill-fated Sioux War of 1876, in which Crook was to play a critical role. By June his command was back in Montana Territory. Cheyenne and Lakota warriors led by Crazy Horse attacked them on the Rosebud River on the 17th. Many people call the outcome a draw, but the six-hour battle forced Crook to withdraw rather than carry on to his rendezvous with Lieutenant Colonel George A. Custer, a decision that contributed to the U.S. Army's debacle at the Battle of Little Bighorn.

Crook occasionally intervened in positive ways for Indians. In 1879, for example, he found legal representation for, and spoke on behalf of, Standing Bear, a Ponca Indian. Standing Bear had been arrested by Crook's troops for entering his old Nebraska homeland to bury his son. A Nebraska court ruled in favor of Standing Bear in *Standing Bear v. Crook* and held that Indians were "persons" under the law and could claim the right of *habeas corpus*. Late in his life, Crook also criticized the U.S. government's failure to abide by its treaties with the Indian tribes.

In 1882 the Apaches took up arms again and Crook returned to Arizona. He spent the next several years trying to pacify them. He forced many to surrender but Chiricahua leader Geronimo evaded him. Nelson A. Miles, who replaced Crook, managed to restore order and exile Geronimo and his followers to a prison in Florida. Crook worked to have Geronimo and his followers relocated to Fort Sill in the Indian Territory.

In 1888 President Grover Cleveland put Crook, then a major general, in command of the Division of the Missouri. In 1889 Crook headed a group of commissioners that persuaded the Sioux to accept allotment of their lands, which opened their reservations to white settlement. Crook believed that allotment would lead to the break up of the reservations and thereby speed the Indians' assimilation into mainstream society.

See also *Civil War*; *Crazy Horse*; *Custer, George Armstrong*; *Geronimo*; *Grant, Ulysses S.*; *Little Bighorn (1876)*, *Battle of*; *Miles, Nelson A.*; *Standing Bear*; *Yakama War*.

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BIBLIOGRAPHY

- Bourke, John G. *On the Border with Crook*. New York: Scribners, 1891.
- Crook, George. *General George Crook: His Autobiography*. Edited by Martin F. Schmitt. Norman: University of Oklahoma Press, 1946.
- Robinson, Charles M., III. *General Crook and the Western Frontier*. Norman: University of Oklahoma Press, 2001.

Utey, Robert M. *Frontier Regulars: The United States Army and the Indian, 1866–1890*. Lincoln: University of Nebraska Press, 1984.
 Vaughn, J. W. *With Crook at the Rosebud*. Mechanicsburg, Penn.: Stackpole Books, 1994.

Cultural Property

The protection of cultural property is a key element in the preservation of any culture, including that of American Indians and Indian tribes. Cultural property can be defined as items so important to a given culture that they assist the culture in identifying itself; they reflect the culture's vision of itself and serve as the embodiment of its important emotional and historical events. Laws exist at the international, national, state, and tribal levels to identify, control, and preserve cultural property. This is important not only to ensure its passage to the next generation, but also to guarantee that it is used and depicted in a manner acceptable to the creating culture. For indigenous people, cultural property includes both tangible and intangible items, including carvings, pottery and rug designs, paintings, religious artifacts, sacred sites, dances, songs, stories, plant knowledge, and language.

One of the key elements distinguishing cultural property from other property is that cultural property is usually deemed to be owned by the culture as a group, and not by any one individual. For example, the Statue of Liberty belongs to the people of the United States. The idea that it could be owned by a single individual who could dispose of it at will is inconceivable. In American Indian traditions, a person, family, or clan may serve as the custodian of an item of cultural property, but they are not its owners in the sense of possessing the unilateral ability to sell or destroy the item. The dispute over the artifacts from Chilkat Village's Whale House illustrates this tension. Once the art world became aware of the existence of the exquisitely carved totem poles and rain screen, an art dealer began negotiations to purchase the artifacts from the Whale House Keeper, who, according to tribal culture, was the custodian of the artifacts but not the owner. After a lengthy period of time, which included a series of lawsuits, legislative actions, and several attempts to remove the artifacts from the village (one of which was ultimately successful), a court ruled that the artifacts were the cultural property of the Klukwan people and could not be sold or removed from the village without the consent of the village council.

Within the United States, disputes regarding American Indian cultural property arise due to a variety of circumstances. Three of the more common are: 1) many Indian sacred sites are located on land now owned by the United

States, 2) Indian artifacts are often viewed only as historical items to be collected by museums or private individuals, and 3) American law tends to protect individual, as opposed to collective, ownership.

Protection of Tribal Cultural Property on Public Lands

Many cultural property matters litigated in the United States have centered around the right of Indians to have access to sacred sites in order to practice their religion, and decisions by federal agencies to manage public lands in ways that either accommodate or fail to accommodate that access. Federal policy, embodied in the American Indian Religious Freedom Act of 1978 and the 1996 Executive Order 13007, require federal agencies to respect the religious practices of American Indians and to take those practices into account when making decisions and setting regulations.

In addition, the National Historic Preservation Act of 1966, which was significantly amended in 1980 and 1992, contains a mechanism for including physical locations classified as traditional cultural property on the National Register of Historic Places, established a review process for ensuring that any decision impacting an historic site be fully informed, and created a system of state and tribal historic preservation officers with significant roles in implementing the national program. However, the act has been criticized because it defines items on the National Register as the cultural property of the United States, and federal (rather than tribal) entities generally have final say in making management and other decisions impacting the property. In addition, the initial step of listing the property on the National Register requires disclosing details about its location, history, and religious significance. Many tribal religions forbid such disclosures to outsiders. National Register Bulletin No. 38, originally issued by the National Park Service in the early 1990s, provides guidelines for evaluating and documenting traditional cultural property.

Other federal statutes do not expressly protect cultural property, but do require informed decisionmaking before federal agencies take action that may impact cultural property. Perhaps the most important such statute is the National Environmental Policy Act of 1969, which requires analysis of major federal actions that might significantly affect human health and the environment, including "historic, cultural and national aspects of our heritage." The act provided the basis for a challenge to the decision of the U.S. Forest Service to authorize upgrades to a ski resort in the Coconino National

Forest, an area of religious significance to a number of tribes in the southwestern United States (*Navajo Nation v. United States Forest Service* [2007]), and another federal decision to authorize the construction of an observatory on Mount Graham in Arizona (*Mt. Graham Red Squirrel v. Yeutter* [1991]), as well as subsequent cases.

Historic Treatment of Tribal Cultural Property

For over one hundred years, museums and private individuals have collected the arrowheads, pots, carvings, and other artifacts made by Indian cultures. Collectors prize these items for their historic, artistic, and monetary value. The demand for such items has created a thriving trade, including a black market, in Indian artifacts. U.S. map agencies have stopped indicating the location of archaeological sites on maps, as they were literally serving as treasure maps for pothunters, people who loot archaeological sites for profit.

Archaeologists gain information by analyzing artifacts in context, which requires that excavations be conducted by trained individuals who properly document their work. In an effort to eliminate excavation by untrained or unauthorized individuals, Congress first enacted the Antiquities Act of 1906 and later the Archaeological Resources Protection Act of 1979 (ARPA). Both statutes establish procedures and requirements for excavating sites. From the perspective of American Indians, both statutes are troubling, as they assert that Indian skeletal remains are archaeological resources and are federal property. ARPA does provide that archaeological resources found on tribal land are tribal property, but that does not alter the fundamental problem of treating human remains as archaeological resources, as something to be dug up and tested and studied. Such actions violate the religious beliefs and burial customs of most tribes.

Museums and private entities have also long collected and displayed the skeletons and bones of Indians. In 1868 the U.S. surgeon general issued a request that army medical officers collect Indian skulls for study, leading to the desecration of Indian burial grounds and the bodies of Indians who died in battle. Indian burial sites were also turned into roadside attractions, including the Indian Burial Pits near Salina, Kansas, and Dickson Mounds in Illinois.

By the time Congress began hearings on the issue in the late 1980s, over forty-three thousand Indian skeletal remains were in the hands of museums—over eighteen thousand of them in the Smithsonian alone. Congress would ultimately enact the National Museum of the American Indian Act in 1989 and the Native American Graves Protection and

Repatriation Act in 1990. These statutes require museums to inventory their holdings of American Indian remains and artifacts and create procedures for repatriating them.

The problems caused by collectors extend beyond the damage to archaeological and burial sites. Regardless of whether the collectors acquired the objects legally or illegally, the phenomenon of collecting Indian artifacts fosters a view of Indians as historical curiosities, rather than as members of living, vibrant cultures. It also naturally leads to conflicts between collectors and tribes over who controls the disposition and treatment of cultural objects. One example of this conflict was the issue of the Zuni War Gods, statues located at various spots around the Zuni Pueblo reservation. The statues were specifically designed to be slowly destroyed by exposure to wind, rain, and other elements. Through the erosion process, the War Gods released their power and protected the Pueblo. In the 1970s the Pueblo became aware that many of the War Gods had been stolen and sold to museums and other collectors. In 1978 the Zuni began a campaign to locate and repatriate the missing statues. Between 1978 and 1990, thirty-eight War Gods were returned without a single lawsuit being filed.

Fulfilling the demands of tourists and collectors can also worsen conflict between tribes. For the Hopis, Kachinas are the physical embodiment of their gods, and strict cultural norms exist restricting the carving and possession of Kachina masks and the carving of Kachina dolls. Indians who are not Hopis have begun manufacturing and selling Kachinas in violation of these cultural norms.

Laws Protecting Cultural Property

The United States has many statutes protecting intellectual property, and a variety of efforts have been made by Indians and Indian tribes to use these laws to protect their cultural property. The Copyright Act, which protects an author's exclusive rights to original work fixed in a tangible medium, potentially provides protection for Indian songs, stories, dances, weaving patterns, pottery, and other art. The law's requirement of identifying the original author and the time frames in which protection is provided, however, render the statute useless to many tribes. The nature of tribal custom and tradition means that often no one individual author or artist can be identified, or, even if one existed, the identity has been lost over time. Ultimately, tribes want to protect their traditional stories and songs as cultural property under the control of the tribe for eternity, not establish rights reserved for one individual for a set period of time.

Patent law, which protects discoveries and inventions, has the potential to protect traditional seed crops and plant knowledge, as well as genetic resources. While some tribes have successfully obtained patents, two significant areas of controversy exist. American Indians, like indigenous people around the globe, possess significant amounts of plant knowledge, including which crops thrive in particular environments and which plants can be used to treat certain diseases. Pharmaceutical and agricultural companies have sought to use this knowledge in their research and development processes. After acquiring the information, the companies often seek patents on their discoveries. The indigenous groups originally in possession of the information usually do not share in the proceeds of the patent. Efforts by tribes themselves to seek patents often fail because a specific inventor cannot be identified, the discovery occurred too far in the past, and/or because the tribe cannot describe the discovery in a manner acceptable to Western scientists.

Patents may also be issued for human cells and genetic discoveries. Because some tribal groups are genetically isolated and unique, they have become the focus of scientists seeking to identify ways in which the groups' DNA creates either susceptibility or resistance to certain diseases. Efforts to patent these discoveries have outraged indigenous groups and activists, particularly in cases where scientists did not first obtain the informed consent of those involved.

Trademark law exists to protect symbols and names used by businesses and other entities to distinguish their products and services from those of other entities. Tribal names, images, and symbols are used to market products (Indian motorcycles, Jeep Cherokee, Mazda Navajo, and Crazy Horse Malt Liquor, for example), as mascots for sports teams (Washington Redskins, Cleveland Indians, North Dakota Fighting Sioux, Florida State Seminoles), and as state logos (the symbol on the New Mexico state flag was appropriated without permission from the Zia Pueblo). The Lanham Act, the primary federal trademark statute, prohibits registration of any marks "which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols." Several efforts have been made to use this provision to cancel trademarks deemed offensive and to provide more control to tribes over their names and symbols.

In addition to general intellectual property laws, Congress also passed the Indian Arts and Crafts Act in 1990 (IACA). The IACA's primary purpose is not specifically to protect cultural property but to require that products represented and sold as being Indian made are indeed Indian made. The

IACA revived and expanded the Department of Interior's Indian Arts and Crafts Board, created a mechanism for assisting with the registration of trademarks and marketing of Indian products, and imposed criminal and civil liability on those who sell products falsely labeled as Indian made. The primary criticism of the IACA centers on its definition of Indian, which requires that a person either be a member of an Indian tribe or be certified as an Indian artisan by an Indian tribe. This definition has been criticized as being both over- and underinclusive.

Tribes often take a broader view of cultural property and seek to protect things, like language, that assist in the transmission and preservation of culture, even if they do not satisfy any existing definition of cultural property. The United States has an uneven history with respect to Indian languages. Beginning with the recommendation by the 1867 Indian Peace Commission, and continuing well into the twentieth century, schools were established to educate Indians using English only; Indian students were punished, often severely, for speaking their native language. Despite the official federal policy to eliminate Indian languages, the U.S. military benefited tremendously from tribal members who used their languages to transmit messages in both world wars. The contributions of the Comanche and Navajo Codetalkers of World War II (1939–1945) have particularly been singled out for recognition. In 1990 Congress officially reversed its prior policies when it enacted the Native American Languages Act, which established a number of mechanisms for preserving Native languages.

Many international agreements exist recognizing and protecting cultural property, including the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. The United States is a signatory to the convention, and Congress has enacted implementing legislation. The convention protects items of archaeological and ethnological interest that are at least 250 years old, which would include many items of significance to Indians. However, it allocates responsibility for designating and protecting cultural property to the United States and not to the tribes themselves.

Other international agreements protect various aspects of cultural property and resources, including the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and the 2007 Declaration on the Rights of Indigenous Peoples.

The World Intellectual Property Organization, a specialized arm of the United Nations, has undertaken to study methods of protecting the traditional knowledge and cultural expressions of indigenous peoples, as well as the intellectual property aspects relating to genetic resources. The Organization of American States has established a Working Group to Prepare the Draft American Declaration on the Rights of Indigenous Peoples.

See also *American Indian Religious Freedom Act of 1978*; *Archaeological Resources Protection Act of 1979*; *Indian Arts and Crafts Act of 1990*; *Native American Graves Protection and Repatriation Act of 1990*; *Sacred Sites*.

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BIBLIOGRAPHY

- American Indian Religious Freedom Act*, Public Law 95-341, 95th Cong., 2d sess. (August 11, 1978).
- Dussias, Allison M. "Waging War With Words: Native Americans' Continuing Struggle Against the Suppression of Their Languages." *Ohio State Law Journal*, vol. 60 (1999): 901-993.
- Ferguson, T. J., Roger Anyon, and Edmund J. Ladd. "Repatriation at the Pueblo of Zuni: Diverse Solutions to Complex Problems." *American Indian Quarterly*, vol. 20 (Spring 1996): 251-271.
- Hapiuk, William J., Jr. "Of Kitsch and Kachinas: A Critical Analysis of the Indian Arts and Crafts Act of 1990." *Stanford Law Review*, vol. 53 (April 2001): 1009-1075.
- Indian Arts and Crafts Act of 1990*, Public Law 101-655, 101st Cong., 2d sess. (November 29, 1990).
- Kremers, Nancy. "Speaking with a Forked Tongue in the Global Debate on Traditional Knowledge and Genetic Resources: Are U.S. Intellectual Property Law and Policy Really Aimed at Meaningful Protection for Native American Cultures?" *Fordham Intellectual Property Media & Entertainment Law Journal*, vol. 15 (Autumn 2004): 1-46.
- Magnanini, Vanessa. "Constructing Tribal Sovereignty for the 21st Century: The Story of Lawmaking in Chilkat Indian Village, *IRA v. Johnson*." *Boston College Third World Law Journal*, vol. 18 (Winter 1998): 45-69.
- Merryman, John Henry. "The Public Interest in Cultural Property." *California Law Review*, vol. 77, no. 2 (1989): 339-364.
- National Environmental Policy Act of 1969*, Public Law 91-190, 91st Cong., 1st sess. (January 1, 1970).
- National Historic Preservation Act*, Public Law 89-665, 89th Cong., 2d sess. (October 15, 1966).
- National Museum of the American Indian Act of 1989*, Public Law 101-185, 101st Cong., 1st sess. (November 28, 1989).
- Native American Languages Act of 1990*, Public Law 101-477, 101st Cong., 2d sess. (October 30, 1990).
- U.S. Department of Interior. *National Register Bulletin*, No. 38, *Guidelines for Evaluating and Documenting Traditional Cultural Properties*. Washington, D.C.: GPO, 1990.
- Who Owns The Past?* Videorecording produced and directed by N. Jed Riffe. Berkeley, Calif: Berkeley Media, 2001.

Curtis, Charles

Charles Curtis (1860-1936) was a member of the Kaw Tribe, a Kansas Republican congressman, senator, and vice president of the United States. Curtis was born on the Kansas frontier to a mother of mixed Indian and French heritage and a father of English-American stock. Raised for a time on the Kaw Indian reservation, the future politician ultimately chose to pursue a formal education and life among his non-Indian relatives. Following a distinguished legal career, Curtis served Kansas in the United States Senate from 1907-1913 and from 1915-1929.

Strongly identifying as Native American, Curtis was among a group of influential Indian progressives who supported government assimilation programs, often over the strong objections of tribal leaders. As chair of the House Committee on Indian Affairs, he sponsored the Curtis Act of 1898, a law that forced allotment and tribal dissolution on the Five Tribes of the Indian Territory (Cherokees, Chickasaws, Choctaws, Creeks, and Seminoles) and paved the way for Oklahoma statehood. Curtis also promoted legislation that protected Indian mineral rights, funded Native schools, and removed squatters from reservation lands.

In national politics, the Kansas senator achieved great heights, becoming Senate majority leader and vice president of the United States during the Herbert Hoover administration (1929-1933). He was the first Native American to achieve these offices. Curtis died of a heart attack on February 8, 1936, having served as a major force in Republican politics and Indian affairs for over a quarter of a century.

See also *Allotment in Severalty*; *Curtis Act of 1898*; *General Allotment Act (Dawes Act) of 1887*; *Hoover, Herbert*; *Indian Territory*.

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BIBLIOGRAPHY

- Unrau, William E. *Mixed Bloods and Tribal Dissolution: Charles Curtis and the Quest for Indian Identity*. Lawrence: University of Kansas Press, 1989.

Curtis Act of 1898

The Curtis Act of 1898 was a piece of allotment era legislation that attempted to destroy tribal governments in the Indian Territory, particularly the five major tribes that had been relocated from the Southeast (Cherokees, Chickasaws, Choctaws, Creeks, and Seminoles). The act overturned

numerous treaty rights by allotting tribal lands, invalidating tribal laws, abolishing tribal courts, and giving the secretary of interior control over tribal revenues and mineral leases on Indian lands.

Passage of the General Allotment Act (also known as the Dawes Act) of 1887 had previously initiated a policy designed to break apart tribal collective lands into smaller portions called allotments. It also empowered the Dawes Commission to redistribute those allotments to individual Indians, with the surplus being sold to non-Indians at bargain prices. In an address to Congress in 1901, President Theodore Roosevelt praised the Dawes Act, declaring that the time had come to recognize the Indian as an individual and not as a member of a tribe.

By the late 1890s, however, the act was encountering strong resistance from some tribes, particularly those in the Indian Territory. Many tribal leaders refused to negotiate new agreements with the Dawes Commission that they claimed broke solemn promises previously made to them by the government. Isparhecher, a Creek chief, noted the “alarming disregard for the terms of treaties already in existence. . . . What good is there to come of future treaties with the United States when she has no respect for those already existing between us” (Kent Carter, *The Dawes Commission and the Allotment of the Five Civilized Tribes*, 1999). Ultimately, however, the inevitability of allotment became apparent, and some of the tribes attempted to negotiate the best terms that they could with the Dawes Commission. When these agreements were presented to the tribal membership, they were often voted down. One such agreement with both the Choctaws and Chickasaws, the Atoka Agreement, was rejected by the Choctaws in December 1897.

Eventually, Congress grew increasingly impatient with the progress of allotment in the Indian Territory under the Dawes Commission. On February 24, 1898, Representative Charles Curtis, himself of Kaw ancestry, introduced “An Act for the Protection of the People of the Indian Territory, and for Other Purposes,” and President William McKinley signed the bill into law on June 28, 1898. Despite its benevolent-sounding title, the only people being protected by this legislation were non-Indians. In effect, what the Dawes Commission had been unable to achieve through negotiation, the Curtis Act now attempted through a legislative order.

The portions of the act that immediately affected the tribes dealt with enrollment. Tribal resistance had hindered the Dawes Commission’s attempts to collect satisfactory rolls

of citizens, and allotment could not proceed until these rolls were generated. Section 21 of the act specified that the commission would have access to all tribal rolls and records, and, if necessary, the federal court in Indian Territory could compel tribal officials to turn over the documents. Refusal or failure to do so would result in punishment for contempt.

Once a citizenship roll was completed and tribal lands were surveyed, Section 11 authorized the commission to proceed with allotment. Mineral rights on allotted land, however, were not distributed. Section 13 gave the secretary of the interior exclusive control over those rights.

In the event allotment itself was not sufficient to destroy the tribal collective, the Curtis Act also attempted to starve tribal governments financially. Section 19 forbade any federal payments to tribal governments or tribal officials. Instead, the secretary of the interior was placed in charge of tribal funds, which subsequently would be distributed only to individual tribal members.

In addition to the monetary restrictions, the Curtis Act attacked the legal infrastructure of the tribes. Section 26 prohibited the enforcement of any tribal laws by any U.S. court in the Indian Territory. Section 28 went even farther, abolishing all tribal courts and removing any powers of tribal court officers.

The devastating impact of the Curtis Act was readily apparent in a few short years. When the Senate Select Committee on Indian Affairs visited each of the Five Tribes in the 1930s, they found that most of the traditionalist communities were near starvation and that literacy rates had dropped sharply, as had tribal land holdings. By 1933 the Choctaw Nation had lost nearly seven million acres and was struggling to hold on to a mere twenty-five thousand. The Creeks had been dispossessed of all of their tribal lands except for one acre. Widespread poverty also meant that many individual allotments were sold under duress. In response to these conditions, Congress passed the Oklahoma Indian Welfare Act of 1936, which repealed many of the sections of the Curtis Act. Other sections of the Curtis Act were further modified by passage of the Five Tribes Act of 1970.

See also *Allotment in Severalty*; Curtis, Charles; *General Allotment Act (Dawes Act) of 1887*; *Indian Territory*; *Oklahoma Indian Welfare Act of 1936*.

Gavin Clarkson

BIBLIOGRAPHY

Carter, Kent. *The Dawes Commission and the Allotment of the Five Civilized Tribes, 1893–1914*. Orem, Utah: Ancestry.com Inc., 1999.

Clarkson, Gavin. "Reclaiming Jurisprudential Sovereignty: A Tribal Judiciary Analysis." *University of Kansas Law Review*, vol. 50 (2002): 473–521.

Debo, Angie. *The Rise and Fall of the Choctaw Republic*. 2nd ed. Norman: University of Oklahoma Press, 1961.

O'Brien, Sharon. *American Indian Tribal Governments*. Norman: University of Oklahoma Press, 1989.

Mardock, Robert Winston. *The Reformers and the American Indians*. Columbia: University of Missouri Press, 1971.

Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.

Custer, George Armstrong

George Armstrong Custer (1839–1876) served with distinction in the Civil War (1861–1865), earning the rank of brigadier general. At war's end, rather than return to civilian life, he accepted a reduction in rank and transferred to the American West to protect settlers. Custer became lieutenant colonel of the newly created Seventh Cavalry. He first engaged Indian warriors in 1867 while assisting in an expedition against the Sioux and Cheyennes, who were fighting the construction of U.S. army forts on Indian land not ceded by treaty.

Following the 1867 expedition, Custer deserted his military post for an unauthorized visit to his wife and was court-martialed. A year later, he returned to active duty and, on November 27, 1868, led the Seventh Cavalry in the massacre of a band of Cheyenne Indians camped at Washita River in present-day Oklahoma. The Cheyennes, led by chief Black Kettle, had been instructed by a U.S. army colonel to make camp and await the return of a general. Under Custer's command, army troops charged the Cheyennes village at dawn, killing more than one hundred men, women, and children, including Black Kettle and his wife.

In June 1876 President Ulysses S. Grant reluctantly allowed Custer to join Gen. Philip Sheridan, Col. John Gibbon, and Gen. Alfred H. Terry on a campaign to surround the Sioux and Cheyennes at Little Bighorn. Grant insisted that Custer not be placed in charge of the troops. Sheridan disobeyed these orders when he allowed Custer to

scout with his men in a separate foray, evidently to locate the Indian encampment. Custer was ordered not to attack the village but to wait for the three main columns of troops. On June 25, 1876, Custer ignored Sheridan's orders and led an attack that resulted in the total destruction of his troops. Custer and 251 officers and men were killed in the Battle of Little Bighorn. (Exact casualties for the battle are disputed.)

The defeat shocked the American public. The government began a new policy of unrelenting, year-round warfare. (Warfare was traditionally not carried out in the winter months due to the harsh weather and its effect on men and horses.) The Seventh Cavalry was reconstructed, rearmed, and participated in the capture of Chief Joseph's band of Nez Perce in 1877 and the massacre of some three hundred Lakota Sioux at Wounded Knee in December 1890.

General Custer and the Battle of Little Bighorn became part of the popular history of the American West. Hundreds of books have been written about Custer and more than a dozen movies based on the battle have been filmed. Few depict any of the actual events that led to the battle; most portray Custer as a hero ambushed by a band of "savage" Indians.

See also *Army, United States; Black Kettle; Little Bighorn (1876), Battle of; Sheridan, Phillip; Wounded Knee Massacre (1890).*

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BIBLIOGRAPHY

Boyer, John S. *Custer's Last Campaign: Mitch Boyer and the Little Bighorn Reconstructed*. Lincoln: University of Nebraska Press, 1991.

Fox, Richard Allen, Jr. *Archaeology, History, and Custer's Last Battle*. Norman: University of Oklahoma Press, 1993.

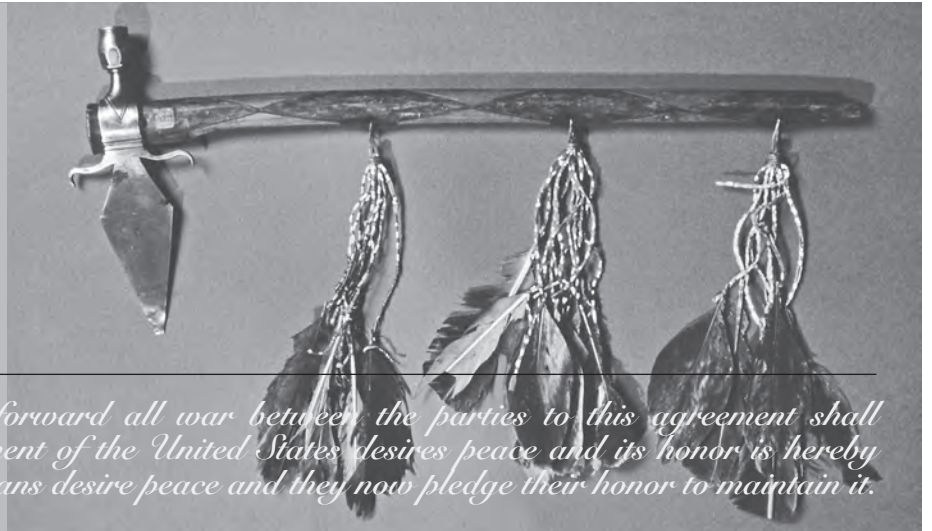
Kuhlman, Charles. *Legend Into History: George Armstrong Custer*. Mechanicsburg, Penn.: Stackpole Publishing Company, 1952.

Monaghan, Jay. *Custer: The Life of General George Armstrong Custer*. Boston: Little, Brown & Company, 1959.

Taylor, William O. *With Custer on the Little Bighorn*. New York: The Penguin Group, 1996.

Utey, Robert M. *Custer And the Great Controversy: The Origin and Development of a Legend*. Lincoln: University of Nebraska Press, 1998.

D



Article 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they now pledge their honor to maintain it.

Dams and Hydroelectric Power

Dams provide approximately 19 percent of the world's electricity and are an important energy source that is often considered relatively "green" (environmentally friendly) in comparison with other sources. In the United States, fourth among nations with the most hydroelectric capacity, dams have provided power, flood protection, irrigation waters, and improved river transportation. Their reservoirs have become sites of recreational activities. Dams have also harmed ecosystems, violated significant archeological and Native American sacred sites and millions of acres of reservation lands, and forced the relocation of thousands of Native and non-Native people. The restructuring of river environments with dams raises important issues regarding treaty rights, land rights, and the allocation of resources such as fisheries and water.

Although dam building on U.S. rivers did occasionally affect Native and non-Native communities in the nineteenth century, impact was relatively limited until the twentieth century, when federal agencies turned to river development for the purpose of hydroelectric generation. In 1902 Congress passed the Newlands Reclamation Act, which created what eventually became known as the Bureau of Reclamation to oversee irrigation projects in the American West. Between the 1930s and the 1970s, the Bureau of Reclamation and the U.S. Army Corps of Engineers built numerous dams on most of the nation's rivers, advancing earlier and smaller efforts that preceded the 1930s. Many Native American communities were affected by the creation of these dams, which included the Bonneville (1938), Grand Coulee (1941), and Dalles (1957) dams on the Columbia

River; Garrison Dam (1953) on the Missouri River; Glen Canyon Dam (1964) on the Colorado River; Kinzua Dam (1965) on the Allegheny River; Ice Harbor (1961), Lower Monumental (1969), Little Goose (1970), and Lower Granite (1972) dams on the Snake River; and Tellico Dam (1979) on the Little Tennessee River. Each is part of a larger system of dams meant to manage the nation's river systems for hydroelectric generation, flood control, and irrigation. As a result, the impact on Native communities and the resources upon which they rely was cumulative and felt throughout entire river basins.

Construction on the Grand Coulee Dam in Washington began in 1933 and was among the many federal relief projects started in response to the Great Depression. The Bureau of Reclamation project created a reservoir named in honor of Franklin Delano Roosevelt that covered fertile land on the Colville and Spokane reservations. Nearly half of the families on the Colville reservation relocated. The dam blocked more than one thousand miles of salmon habitat, eliminating salmon on the river north of the dam and affecting Indian fishing communities throughout the region. In all, eight federal dams were constructed on the main stem of the Columbia River. While most did not flood reservation lands, all negatively affected the river's prized salmon runs and most overwhelmed significant off-reservation Native fishing sites. Some of them also destroyed or displaced many villages and burial sites. The engulfing of the spectacular Celilo Falls and Long Narrows region of the mid-Columbia River by the Dalles Dam in Oregon necessitated a series of negotiations with members of the Yakama, Warm Springs, Umatilla, and Nez Perce reservations and culminated in a cash settlement. As with dam projects in other parts of the



George Gillette, chair of the Fort Berthold Indian Tribal Business Council, left, weeps as Secretary of the Interior J. A. Krug signs the contract in which the tribe sold 155,000 acres of its reservation for the Garrison Dam project. In the 1990s, the tribe was awarded \$142 million for losses associated with the dam.

country, those on the Columbia River were preceded by some measures to document archeologically significant sites such as Petroglyph Canyon.

Tribes living along the Missouri River faced similar losses during the same period. Five dams were constructed on the Missouri's main stem as part of the Pick-Sloan Plan, flooding more than 550 square miles of tribal lands and leading to the relocation of more than nine hundred Native families. Much of the acreage lost to the Garrison Dam's Lake Sakakawea was agriculturally rich bottom land on the Fort Berthold reservation.

The Kinzua Dam (1965) in Pennsylvania, built for flood control and to generate hydroelectricity on the Allegheny River, forced the relocation of approximately seven hundred Seneca Indians from Pennsylvania to New York. The dam's twenty-five-mile reservoir flooded nearly ten thousand acres of tribally owned land, forced the relocation of gravesites, and destroyed the Cold Spring Longhouse, an important sacred site.

By the 1970s dam building had slowed in the United States, with most rivers suited to hydroelectric generation already developed. One exception was the Tellico Dam on the Little Tennessee River, which was highly controversial for its potential environmental impacts. After years of conflict, construction concluded in 1979. The dam's reservoir

flooded former Cherokee settlements; burial sites; a platform mound; and their sacred mother town, Chota.

Throughout the transformation of the nation's rivers, Native leaders contested dam building. Tribal politicians recorded their dissent in carefully worded resolutions, spoke at public meetings and to journalists, and traveled to Washington, D.C., to testify before congressional committees. They elected tribal representatives to negotiate compensation with federal agencies. Sometimes they worked with Bureau of Indian Affairs agents to spread their concerns. Much of the dam building on the nation's largest rivers coincided with the rise in popularity of the termination policy, which sought to assimilate Indians into mainstream American society and thus hampered efforts to negotiate adequate settlements. Despite this, Native resistance to dam construction, as well as tribal efforts to protect treaty-guaranteed fishing rights after World War II (1939–1945), stimulated tribal advocacy for continued sovereignty in the 1960s and 1970s.

Compensation usually took the form of a one-time large sum payout rather than payments spread over generations and linked to the profits of hydroelectric generation. Several tribal communities renewed their efforts to gain appropriate compensation in the 1980s and 1990s. The Colville reservation reached a \$52 million settlement in the 1990s, and Congress awarded the Three Affiliated Tribes of the Fort Berthold reservation \$142 million for their losses associated with the Garrison Dam in North Dakota.

Dams do not always negatively affect tribal people, and there are some instances where tribes have approved of, and benefited from, the development of rivers. The Confederated Tribes of the Warm Springs reservation in Oregon approved Portland General Electric's Pelton Dam on the Deshutes River, which runs through the reservation, at the same time that the tribe was protesting dams slated for the Columbia River. In 2001 the tribes agreed to form a partnership with the private owner to manage the dam and associated hydroelectric project.

See also *Fishing, Hunting, and Gathering Rights; Roosevelt, Franklin D.; Termination and Restoration.*

Katrine Barber

BIBLIOGRAPHY

- Barber, Katrine. *Death of Celilo Falls*. Seattle: University of Washington Press, 2005.
- Bilharz, Joy A. *The Allegany Senecas and Kinzua Dam: Forced Relocation through Two Generations*. Lincoln: University of Nebraska Press, 2002.

- VanDevelder, Paul. *Coyote Warrior: One Man, Three Tribes, and the Trial that Forged a Nation*. Lincoln: University of Nebraska Press (Bison Books), 2005.
- Wheeler, William Bruce. *TVA And The Tellico Dam: A Bureaucratic Crisis In Post-industrial America*. Knoxville: University of Tennessee Press, 1986.

Dancing, Regulation of

In the United States, a directive listing dance as a federal “Indian Offense,” punishable by fines and imprisonment, was on the books for over fifty years, starting in the early 1880s until its repeal in 1934. However, aspects of the restrictions, including the ban on “torture” as part of the Sun Dance, continued until around 1952. Throughout this period, the rhetoric surrounding anti-dance policies shifted in subtle but significant ways. The earlier restrictions focused on the military threat that Indian dancing was perceived to pose. Some army officers and Indian agents feared that certain dancing was a prelude to an Indian uprising. Around the turn of the twentieth century, the restrictions began to focus more on the dances’ supposed barbarism. Shortly thereafter, the thrust of the regulations became to halt practices that officials saw as wasteful. Although these regulations did affect Indian dance practices, many Native peoples also refused or circumvented attempts to ban and restrict dancing, and many Indian dance practices continue today.

In the 1880s Secretary of the Interior Henry Teller and Indian Commissioner Hiram Price instigated the first official federal strictures on Native American dance practices. On December 2, 1882, Teller addressed a letter to Price directing him to devise rules to prohibit dances and other traditional rituals that inhibited the acculturation of Indians. He warned that dances such as the Sun Dance and the Scalp Dance encouraged aggressive behavior on the part of the young men in a tribe.

On April 10, 1883, Price directed Indian agents to establish courts of Indian offenses, staffed by “civilized” Indians who would rule on Indian cultural practices that the U.S. federal government deemed “offensive.” The first Indian offense named, which was repeated in the 1892 reissue of the rules, was dancing: “Any Indian who shall engage in the sun dance, scalp dance, or war dance, or any other similar feast, so called, shall be deemed guilty of an offense, and upon conviction thereof shall be punished” (Francis Paul Prucha, *Documents of United States Indian Policy*, 3rd ed., 2000).

Less than a decade later, however, the tenor and rhetoric of federal restrictions on Indian dances shifted. Explicit

restrictions on “scalp” and “war” dances and concerns about Indian dancing as prelude to warfare disappeared from the 1904 regulations. Instead, concerns focused on the Sun Dance—widely described as “barbarous”—and called into question the religious status of Indian dances and ceremonies. Punishment for dancing included the withholding of rations and incarceration.

During the 1920s the government still referred to dances as “barbarous” in its prohibitions, but new edicts increasingly focused on a different anxiety: the “waste” officials claimed Indian dancing produced. As non-Indians flocked to see Southwest Indian dances, the government issued anti-Indian dance circulars directed at the very dances these tourists and artists were traveling to see. On April 26, 1921, Commissioner of Indian Affairs Charles Burke issued Circular No. 1665 to the superintendents in which he insisted that dancing could be elevating, but that Indian dances were harmful, profane, and encouraged degrading behavior. He especially condemned dances that promoted “acts of self-torture, immoral relations between the sexes, the sacrificial destruction of clothing or other useful articles, the reckless giving away of property, the use of injurious drugs or intoxicants, and frequent or prolonged periods of celebration which bring the Indians together from remote points to the neglect of their crops, livestock, and home interest.” Burke suggested that each superintendent first use “patient advisory methods” to convince the Indians “to confine their dances and like ceremonials within such bounds as he may with reasonable concession approve.”

On February 14, 1923, Burke issued a supplement to Circular No. 1665—based on missionary recommendations calling for time and age restrictions in Indian dancing—accompanied by a letter of “appeal to the Indians of all our jurisdictions.” In this message Burke argued that dances “take the time of the Indians for many days” and lead to “the neglect of stock, crops, gardens, and home interests.” He wrote, “and then you go home to find everything going to waste.” American Indian leaders (along with some artists and Indian rights activists) argued that this rhetoric and legal debate about Indian dancing was tied to proposed legislation about Indian land. Some insisted the ceremonials be recognized as valid religious practices; that the tourists, not the dancers, were degraded; or that Christians “wasted” time and money on Christmas.

In the early 1930s, Commissioner of Indian Affairs John Collier repealed the dance restrictions that had been on the books since 1884. On January 4, 1934, Collier issued

Circular 2970, entitled "Indian Religious Freedom and Indian Culture." In it he wrote, "No interference with Indian religious life or ceremonial expression will hereafter be tolerated. The cultural liberty of Indians is in all respects to be considered equal to that of any non-Indian group."

See also *Burke, Charles; Collier John; Price, Hiram; Teller, Henry; U.S. Indian Policy: Congress and the Executive, 1871–1934; Wovoka.*

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BIBLIOGRAPHY

- Heth, Charlotte, ed. *Native American Dance: Ceremonies and Social Traditions*. Washington D.C.: Smithsonian Institution, 1992.
- Holler, Clyde. *Black Elk's Religion: The Sun Dance and Lakota Catholicism*. Syracuse, N.Y.: Syracuse University Press, 1995.
- Prucha, Francis Paul. *Documents of United States Indian Policy*. 3rd ed. Lincoln: University of Nebraska Press, 2000.
- Shea Murphy, Jacqueline. *The People Have Never Stopped Dancing: Native American Modern Dance Histories*. Minneapolis: University of Minnesota Press, 2007.
- Sweet, Jill D. *Dances of the Tewa Pueblo Indians: Expressions of New Life*. Santa Fe, N.M.: School of American Research Press, 1985.

Dann Sisters

Mary Dann (1923–2005) and Carrie Dann (1933–), members of the Western Shoshone Nation, were born in Eureka County, Nevada. Known for their civil rights and Native American land rights activism, they carried on a nearly forty-year struggle against the United States government to maintain their ancestral Western Shoshone lands, which include two-thirds of Nevada and parts of four adjoining states.

The Dann sisters were raised in traditional Shoshone culture, which celebrates the leadership of women. They grew up on a ranch that they later owned as adults and that came to be a source of conflict with the United States government. The sisters claimed that the United States had taken land and use rights belonging to them and the Western Shoshones. Shoshone lands have been used as a testing facility for conventional and nuclear weapons and for storage of nuclear waste, and the Dann ranch abuts a gold mine. The Dann sisters therefore became involved in protest movements against nuclear weapons and mining to help protect traditional Shoshone land.

The Western Shoshone Nation lost most of their land under the 1863 Treaty of Ruby Valley. The treaty limited the boundaries of the Shoshones, while giving the United States limited access to, and use of, the Shoshone land. The nation

sued the United States, claiming that the government used illegal means to gain control of their ancestral lands.

The conflict continued for years before the federal Indian Claims Commission decided that the Shoshones had lost their land due to the gradual settlement of non-Indians. The nation was awarded \$26 million in compensation in 1970. Though the Shoshones refused the award, the Supreme Court ruled in *United States v. Dann* (1985) that the nation had lost their title to the land because they had been awarded compensation. Congress has since attempted to provide a payment that would satisfy the Shoshones. It was under this scenario that the Danns began to wage their legal battle to recover the Shoshones' lands and to keep multinational corporate interests from exploiting the tribe's natural resources.

In 2003 the Inter-American Commission on Human Rights issued a decision against the U.S. government affirming the Western Shoshones' right to their ancestral lands. The decision was the first time the commission found against the federal government in favor of a tribe, and it cited violations in the human and treaty rights of the Dann sisters.

Mary died in 2005 after an accident on an all-terrain vehicle, but Carrie continues their activism work.

See also *Indian Rights Movements.*

Fred Lindsey

BIBLIOGRAPHY

- Luebben, Thomas E. "The Western Shoshone: The Land Rights Struggle of the Western Shoshone Nation." *Aboriginal Law Bulletin*, vol. 2 (April 1988): 10–13.
- McKelvey, Tara. "Domestic Abuse: How the United States Government Is Violating Native Americans' Human Rights," September 19, 2004, www.prospect.org/cs/articles?article=domestic_abuse.
- Schaff, Deborah, and Julie Fishel. "Mary and Carrie Dann v. United States at the Inter-American Commission on Human Rights: Victory for Indian Land Rights and the Environment." *Tulane Environmental Law Journal*, vol. 16 (Winter 2002): 175–187.
- Udel, Lisa J. "Revision and Resistance: The Politics of Native Women's Motherwork." *Frontiers: A Journal of Women Studies*, vol. 22, no. 2 (2001): 43–62.
- United States v. Dann*, 470 U.S. 39 (1985).

Dart, Anson

Anson Dart (1797–1879), born March 6, 1797 in Brattleboro, Vermont, was the first superintendent of Indian affairs appointed to negotiate treaties with tribes in the Oregon Territory. Dart arrived in Oregon in 1851 to resolve conflicts generated by treaties made with Native bands and

to ensure that the Indians remained on the large reservations where they lived.

The Donation Land Act of 1850 drew American immigrants into the Oregon Territory, increasing conflicts between settlers, miners, and the Native people. In response, the commissioner of Indian affairs in Washington, D.C., formulated new policies. Dart and his agents were assigned to remove Native people from western Oregon and to consolidate all tribes east of the Cascade Mountains. Dart discovered that neither the eastern nor the western tribes favored consolidation, however, and he believed that the valley and coastal Indians were a valuable labor force benefiting the settlers.

In 1851 Dart negotiated thirteen treaties at Tansey Point, Port Orford, and in Oregon City. Through these agreements, the western tribes relinquished title to most of their territory, but were allowed to keep small reservations on their homelands. Most of the Natives were free to fish, hunt, graze animals, and use timber for their homes, but some agreements were limited to ten years or the lifetime of the signers. When Dart submitted the six treaties signed by territorial governor John P. Gaines and his own thirteen treaties to Congress, all were tabled and placed in a confidential file. None met the criteria for removal established by the Indian commissioner. Dart resigned as superintendent and left Oregon in 1853.

In 1864 Dart patented a “venereal preventive,” which started a scandal in the Indian Office when a decade later the commissioner of Indian affairs purchased five thousand bottles of the oil to be used as protection by the Indians. Dart’s medicine was soon shown to be worthless, which likely figured in his later failed attempts to gain appointment again as a superintendent of Indian affairs, first for Arizona and then for Washington Territory. Dart died in Washington, D.C., on August 12, 1879.

Fifty-five years after the Dart treaties were rejected, the secretary of the interior compiled a roll of descendents of those Indians who had signed some of the treaties. In 1913 an appropriations bill compensated the signers’ descendents with money, but not with land.

In *Documents of American Indian Diplomacy: Treaties, Agreements, and Conventions, 1775–1979* (1999), Vine Deloria and Raymond DeMallie wrote, “With the creation of these rolls, the United States may be said to have reconstituted the tribes for the purpose of affirming and fulfilling the treaties.” In 2002, when the Chinook Tribe of Washington was accepted for recognition, the 1906 rolls provided a foundation for their argument. The decision was later reversed, but

the validity of the Dart treaty was not questioned and may still provide the Chinooks and other tribes with a basis for future successful efforts at recognition.

See also *Donation Land Law; Removal.*

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BIBLIOGRAPHY

- Armstrong, William H. *Edward Parmelee Smith: A Friend to God's Poor*. Athens: University of Georgia Press, 1993.
- Coan, C. F. “The First Stage of the Federal Indian Policy in the Pacific Northwest, 1849–1852.” *Oregon Historical Quarterly*, vol. 22 (March 1921): 46–49.
- DeMallie, Raymond J., and Vine Deloria, Jr. *Documents of American Indian Diplomacy: Treaties, Agreements, and Conventions, 1775–1979 (Legal History of North America)*. Vol. 4. Norman: University of Oklahoma Press, 1999.
- May, James. “Chinook status denied,” *Indian Country Today*, July 12, 2002, www.indiancountry.com/content.cfm?id=1026488045.

Davis, Jefferson

Jefferson Davis (1808–1889) was the only president of the Confederate States of America (C.S.A.). He also served as a U.S. representative and senator from Mississippi and secretary of war under President Franklin Pierce. In all of these powerful positions, he affected U.S. Indian policy.

Davis embraced the concept of Manifest Destiny, as did many other whites of his time, believing Indians would have to give way to the inevitable progress of Anglo-Americans. Educated at West Point, Davis served in an army primarily occupied with subduing “hostile” Indians. His posting to the frontier brought him into direct contact with American Indians struggling to retain their lands against a tide of white settlers. One of his major concerns as secretary of war was to ensure that the army protected the settlers flooding Indian country. He sent troops to move reluctant Seminoles to the Indian Territory. As a senator, Davis pushed to include Indian Territory in the enforcement of the Fugitive Slave Law.

As president of the Confederacy, Davis had direct contact with the five southeastern Indian nations (Cherokee, Creek, Choctaw, Chickasaw, and Seminole) who had been relocated to Indian Territory. He created an Office of Indian Affairs under the War Department in March 1861. One of the most important steps Davis took was to recognize the importance and strength of the Indian nations and to send agents to secure their alliance with the Confederacy. The C.S.A. achieved this in 1861, and all five southeastern nations remained at least nominally aligned with the Confederacy during the Civil War (1861–1865).

See also *Army, United States; Civil War (1861–1865); Confederate States of America; Indian Territory.*

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BIBLIOGRAPHY

- Cooper, William J. *Jefferson Davis, American*. New York: Alfred Knopf, 2000.
- Davis, William C. *Jefferson Davis: The Man and His Hour*. New York: Harper Collins, 1991.
- Hattaway, Herman, and Richard E. Beringer. *Jefferson Davis, Confederate President*. Lawrence: University Press of Kansas, 2002.

Dawes, Henry L.

Massachusetts congressman and senator Henry Laurens Dawes (1816–1903) was born on October 30, 1816, in western Massachusetts. Educated at Yale College, he served in various state offices before being elected to the U.S. House of Representatives in 1857, where he chaired several committees. In 1875 Dawes was elected to the U.S. Senate and served as chair of the Senate Committee on Indian Affairs.

Dawes became interested in Indian affairs toward the end of his first term in the Senate. His principal connection to the issue was his sponsorship of the General Allotment Act (Dawes Act) of 1887. Whereas previous policy toward Native Americans stressed the physical removal of tribes to isolated reservations, Indian reformers of the 1870s emphasized the need to prepare Native Americans for private property ownership. Under the Dawes plan, reservations would be broken up and the lands distributed to individual Indian families. When a Native American took an allotment, he became a U.S. citizen. A further provision allowed the federal government to purchase unallotted lands. The proceeds of these purchases would fund schools for Native Americans that would help “civilize” the various tribes. This plan, Dawes believed, would accelerate the incorporation of Native people into Anglo-American society. Historians have been critical of the Dawes Act because not only did it result in the widespread loss of tribal lands and political autonomy, but the schools founded under it undermined Native American culture.

After retirement from the Senate, Dawes stayed active in Indian affairs. In 1893 he headed the Commission to the Five Civilized Tribes (the Dawes Commission), which convinced the Cherokees, Choctaws, Seminoles, Creeks, and Chickasaws residing in the Indian Territory to accept allotment by 1902. Dawes died on February 5, 1903.

See also *Allotment in Severalty; Curtis Act of 1898; General Allotment Act (Dawes Act) of 1887.*

Bruce Tap

BIBLIOGRAPHY

- Hoxie, Frederick E. *A Final Promise: The Campaign to Assimilate the Indians, 1880–1920*. Lincoln: University of Nebraska Press, 1984.
- Prucha, Francis Paul. *American Indian Policy in Crisis: Christian Reformers and the Indian, 1865–1900*. Norman: University of Oklahoma Press, 1976.
- Washburn, Wilcomb E. *The Assault on Indian Tribalism: The General Allotment Law (Dawes Act) of 1887*. Philadelphia, Penn.: Lippincott, 1975.

Dawes Act

See *General Allotment Act (Dawes Act) of 1887*.

Dawes Commission

See *Dawes, Henry; General Allotment Act (Dawes Act) of 1887; Indian Territory; U.S. Indian Policy: Congress and the Executive, 1871–1934*.

De Smet, Pierre Jean

Pierre De Smet (1801–1873) was a Roman Catholic priest of the Jesuit order. He emigrated to the United States from Belgium in 1821. After his ordination in 1827, he worked and traveled among the Indians, becoming increasingly involved in peacemaking, often at the behest of the government.

De Smet was first introduced to Native Americans and their ways of life while serving as prefect at St. Regis Seminary and Indian School in Florissant, Missouri (1824–1830). Poor health prompted him to return to Europe in 1830, but he returned to the United States in 1838 and founded a mission for the Potawatomi in Council Bluffs, Iowa. He left there in 1840 to satisfy the Flatheads’ (Salish) request for a priest. He lived and traveled with them until he became superior of the Oregon Mission (1841–1846). During that time, De Smet visited and established missions among many of the Native peoples of the Northwest, whose prior contact with Christian fur traders and their Christianized Indian employees had made them unusually receptive to missionaries. In 1849 he returned to St. Louis, where he served as assistant vice provincial and procurator of Missouri until his death.

In addition to establishing Catholic missions throughout the region, De Smet brokered peace among Indian groups

and between them and the government. He is particularly remembered for his calming role at the 1851 Fort Laramie treaty council, for persuading some of Sioux chief Sitting Bull's followers to sign the 1868 Fort Laramie Treaty, and for serving as a peace commissioner for the government during the Yakama and Coeur d'Alene wars.

See also *Coeur d'Alene War (1858); Fort Laramie (1868), Treaty of; Missions and Missionaries; Yakama War (1855–1856).*

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BIBLIOGRAPHY

- Bishop, George. *Black Robe and Tomahawk: The Life and Travels of Father Pierre Jean De Smet, S. J. (1801–1873)*. Leominster, UK: Gracewing, 2003.
- Carriker, Robert C. *Father Peter John De Smet: Jesuit in the West*. Norman: University of Oklahoma Press, 1995.
- Chittenden, Hiram M. and Alfred T. Richardson. *Life, Letters and Travels of Father Pierre-Jean De Smet, S. J. 1801–1873*. 4 vols. New York: P.J. Harper, 1905.
- De Smet, Pierre-Jean, S. J. *The Oregon Mission and Travels Over the Rocky Mountains in 1845–1846*. New York: Edward Dunigan, 1847.
- Killoren, John J. "Come, Blackrobe": *De Smet and the Indian Tragedy*. Norman: University of Oklahoma Press, 1994.
- Peterson, Jacqueline with Laura Peers. *Father De Smet and the Indians of the Rocky Mountain West*. Spokane: De Smet Project, Washington State University in association with the University of Oklahoma Press, 1993.

Dearborn, Henry

Henry Dearborn (1751–1829), a New-Hampshire-born physician, army officer, land speculator, and congressman, served as the United States's fifth secretary of war from 1801 to 1809. As the head of the War Department, Dearborn implemented President Thomas Jefferson's dual policy of Indian civilization and territorial expansion. The Jefferson administration's need for Indian land was acute for multiple reasons: the Republicans favored the rapid expansion of white settlements, Jefferson wanted to create a security buffer along the Mississippi River, and the administration in 1802 promised Georgia to clear the Indian title to all lands in the state. Dearborn thus directed U.S. treaty commissioners to press the eastern Woodland Indians for land cessions, if necessary by bribing influential chiefs.

Like other Jeffersonian Republicans, the secretary was frugal with public funds and preferred to pay the lowest possible price for Native American land; in 1806 he wrote that 1–2 cents per acre was reasonable. Dearborn also argued that Indian land cessions would help advance the civilization program, as the loss of their hunting grounds would pressure

Native Americans into adopting commercial agriculture and home manufactures. He even suggested urging Indian treaty signatories to divide their remaining lands into community allotments and then individual allotments, following the principle of philosopher John Locke that individual property ownership was the foundation of civilization. By the end of Dearborn's tenure, the War Department had arranged twenty treaties whereby the U.S. government acquired over 200,000 square miles of Indian land.

See also *Civilization Program; Jefferson, Thomas.*

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BIBLIOGRAPHY

- Horsman, Reginald. *Expansion and American Indian Policy, 1783–1812*. East Lansing: Michigan State University Press, 1967.
- Wallace, Anthony F. C. *Jefferson and the Indians: The Tragic Fate of the First Americans*. Cambridge, Mass.: Harvard University Press, 1999.

Decolonization

According to indigenous scholars Waziyatawin Angela Wilson and Michael Yellow Bird, "Decolonization is the intelligent, calculated, and active resistance to the forces of colonialism that perpetuate the subjugation and/or exploitation of our minds, bodies, and lands, and it is engaged for the ultimate purpose of overturning the colonial structure and realizing Indigenous liberation" (*For Indigenous Eyes Only: A Decolonization Handbook*, 2005). In the same work, Wilson and Yellow Bird describe decolonization as a constellation of strategies that empower indigenous communities to "freely determine their political status and freely pursue their economic, social, and cultural development." Native American decolonization activism has been influenced by, but is clearly distinct from, the decolonization movements that developed in the 1960s and 1970s against European colonialism in Africa, the Middle East, and other parts of the world.

Tribal societies coexisted and prospered for thousands of years before their contact with Europeans. European explorers crossed the Atlantic in the late fifteenth century and happened upon a land more vast than they could have imagined and populated by millions of indigenous peoples, who were expeditiously misrepresented as biologically and intellectually inferior. Europeans later began to devise rationalizations for destroying the indigenous populations through wars, diseases, and forced relocations.

Efforts to challenge and resist colonization often invoked increased brutality, but the indigenous peoples persisted, pro-

ducing an enduring legacy of essential cultural elements, beliefs, values, and traditions. Decolonization is a goal and a process that emanate from historical resilience and survival. To outdistance the contemporary effects of colonization, it must therefore be organic.

The Goal and the Process

The *goal* of decolonization is to cultivate strong, vibrant indigenous communities in which solutions are derived from indigenous cultural frameworks. Decolonized indigenous peoples are self-governing, proactive nations that set their own agendas for transforming their lives.

Discussions among indigenous leaders, healers, and scholars reveal that decolonization is also a *process* complicated by paradox. When indigenous peoples exercise legal sovereignty, for example, they are wielding a weapon of colonization, for it was European legal philosophers who constructed the idea of sovereignty and used it to exert dominion over the indigenous peoples they encountered in their conquests. Sovereignty, as defined by federal Indian law, continues to subjugate indigenous peoples by allowing internal governance while denying independent nation status. Sovereignty can be used to further decolonization efforts, but it is not the overall goal of the decolonization movement.

Education is another mechanism of decolonization that is paradoxical. In the nineteenth century, federal Indian policy codified systemic colonization through miseducation in government boarding schools. In an effort to, in school founder Richard Henry Pratt's words, "kill the Indian and save the man," agents of the U.S. government forcibly removed indigenous children from their homes and placed them in institutional Office of Indian Affairs (OIA) boarding schools far from their families for extended periods of time.

Policymakers reasoned that white "civilization" could be imposed on children by forcing them to abandon their tribal cultures. They were assigned English names, their long hair and braids were shorn, and they were humiliated and punished for speaking their indigenous languages. They were also taught that their spiritual practices were inferior to Christianity and were forced to participate in industrial training.

Today, in the twenty-first century, the indigenous peoples of North America leverage education to promote multifocal, action-oriented, results-focused efforts to reclaim and reassert their inherent rights and manifest holistic, traditional worldviews. Much of the contemporary discourse about

decolonization credits educator Paulo Freire with articulating the concept of critical consciousness and developing a model for decolonizing education (Freire and Ramos, *Pedagogy of the Oppressed*, 1970).

Indigenous scholars with strong cultural identities contribute to the decolonization of their tribal communities by educating and advocating for critical examination of behaviors, ideologies, institutions, policies, and economies that maintain the subjugation or exploitation of indigenous peoples, lands, and resources. Decolonizing education is guided by indigenous wisdom and promotes indigenous thought. It is based on ecological order and sustainable development.

Indigenous nations each have their own unique culture and, therefore, their own way of asserting their autonomy and sovereignty. However, several fundamental principles are common features of decolonization:

- Land is life. This concept holds that indigenous peoples must reconnect with the terrain and geography of their heritage if they are to comprehend the teachings and values of their ancestors, and if they are to draw strength and sustenance that are independent of colonial power and regenerative of an authentic, autonomous indigenous existence.
- Language is power. This principle maintains that indigenous peoples must recover ways of knowing and relating from outside the mental and ideational framework of colonialism by regenerating themselves in a conceptual universe formed through indigenous languages. Decolonization scholars argue that language conveys a worldview, which is why the extinction of tribal languages was a specific focus of boarding schools for Native children.
- Freedom is the other side of fear. This statement suggests that indigenous people must transcend the controlling power of the many and varied fears that colonial powers used to dominate and manipulate them into complacency and cooperation with colonial authorities. They should undertake this task by confronting fears head-on through spiritually grounded action; contention and direct movement at the source of fears are the only ways in which to break the chains that bind people to their colonial existences.
- Decolonize the diet and lifestyle. Advocates of decolonization argue that indigenous people must regain the self-capacity to provide their own food, clothing, shelter, and medicines. They also contend that indigenous peoples must reconstitute their sick and weakened physical

bodies and community relationships through a return to natural sources of food and the active, hard-working, physical lives lived by their ancestors.

- Change happens one person at a time. Indigenous people must reconstitute the mentoring and learning-teaching relationships that foster real and meaningful human development and community solidarity. The movement toward decolonization and regeneration will emanate, decolonization scholars argue, from transformations achieved by small, personal groups and one-on-one mentoring toward a new path of self-determination.

Recent works on decolonization, such as Wilson and Yellow Bird's anthology *For Indigenous Eyes Only*, reveal the many other themes significant in the indigenous movement. In that work, the authors argue that indigenous communities should establish critical thinking centers to help community members understand how colonialism has affected their lives. Other authors call for indigenous peoples to ask schools and sports teams to abandon mascots they find offensive and to protect their cultural patrimony. Still others call on indigenous peoples to integrate traditional political forms and practices into tribal or community governance and to develop tribal or national citizenship requirements that throw off the BIA's blood quantum element (blood quantum is a system of defining tribal citizenship by the percentage of Indian ancestry). Decolonization also requires indigenous peoples to energize education with traditional storytelling and wisdom and to demand the teaching of indigenous languages and culture in indigenous schools and public schools with indigenous students.

Before the introduction of written language, grandparents and gifted storytellers distributed all knowledge orally. It was through their living breath that the ancient tales of their ancestors were passed on and remembered. The stories taught young people how to learn from the environment and their life experiences. One of the many strategies to decolonize indigenous peoples is to remember the ancestral teachings and master the art of storytelling.

Storytelling and language revitalization promote decolonization by conveying indigenous knowledge in indigenous speech. Some indigenous concepts cannot be translated into English words; they can be transmitted only by indigenous language speakers in their own language. Indigenous languages convey a way of thinking and relating to the rest of the universe that distinguishes their speakers from westernized peoples.

Achievements

Systematic colonization and control over indigenous land, resources, and life has persisted for more than five hundred years; however, many scholars continue to misunderstand the ongoing destruction. Indigenous peoples' steadfastness to a postcolonial vision of reclamation and restoration has yielded remarkable change. Many indigenous peoples are developing into strong, growing, vital populations thanks to the development of the decolonization models.

Advocates of decolonization argue that the transformation must be a personal as well as a public journey that can be achieved only when indigenous peoples reclaim the strength and power inherent in their traditional life ways through tribal self-determination and complete liberation from federal and state control. Self-governance, a constituent element of self-determination, was initiated for some tribes in the United States through the Tribal Self-Governance Project in 1988.

Indigenous families were the focal point of colonization in North America in the late nineteenth century, and indigenous communities hemorrhaged, sometimes fatally, from the loss of their lifeblood—their children. The painful consequences of removing children from their homes and communities to attend boarding schools were exacerbated in the 1950s and 1960s when hundreds of indigenous children were adopted by nonindigenous parents through the Indian Adoption Project. In the late 1960s and early 1970s, indigenous activists denounced the project as the most recent in a long line of genocidal policies toward indigenous communities and cultures. Because of the lobbying by indigenous activists, the Indian Child Welfare Act (ICWA) was passed by Congress in 1978, reversing the practices promoted by the Indian Adoption Project. The positive features of the ICWA, in terms of family preservation, ensure that more children are raised in their indigenous communities with access to traditional culture.

Indeed, children reared by their indigenous communities experience greater opportunities to benefit from tribal healing—programs designed to mitigate and prevent the transmission of colonization. More indigenous children are growing up experiencing their place in the world, which supports the type of critical consciousness that undergirds decolonization.

Decolonization and Identity

Critical consciousness of one's tribal identity entails deconstructing socially constructed versions of reality. Individuals begin to understand reality objectively through their inter-

actions with the external environment, including other people engaged in their own interactions and reality-forming processes. Deconstruction of the assumptions about social reality that validate European-centered hegemony is a necessary but not sufficient condition for a decolonized personal transformation. It must be accompanied by a process of reconstructing social reality—both objectively and subjectively—based on understanding one's tribal history and perceiving one's location in it.

This process of centering oneself or affirming tribalism involves purposeful learning about one's tribal history and critically reinterpreting a lifetime of learning. It requires seeking out perspectives other than those legitimated by the Euro-American elite.

Decolonization represents a point of departure from Euro-centric thinking and worldviews, especially among individuals who have declared their intellectual freedom. Indigenous educators and academics are caught between the philosophy of liberation and the methodologies of western academia. Indigenous languages and strategies for transmitting knowledge combine liberatory philosophies with decolonizing methodologies.

The multiple languages that indigenous peoples use today to categorize one another as ethnic groups are imperfect. Race categories tend to evolve at the same time that human beings are evolving in their own ethnic identities, especially in the multicultural society in which many people live today. The contemporary debates over U.S. Census classifications are a case in point. The original creation of racial categories favored the dominant-race groups over other racial groups, creating a system of subordination and perpetuating marginalization.

Some writers argue that the continuing use of obsolete racial terms prolongs that oppression. In fact, racism is based on the politically constructed concept of race that produced racism and cultural genocide in the United States. The discourse on the nomenclature of identity and names helps individuals examine the original construction and evolution of tribal names and how this nomenclature reflects their tribal identity. Therefore, a knowledge base that integrates the topics of "identity" and "names" may lead to a discussion among indigenous peoples of linguistic imperialism—that is, how someone outside their tribal group named them, or how tribes and individuals can rename themselves using their traditional tribal names.

Indigenous scholars have often felt the need to create language or new terms in the most meaningful ways. Some

indigenous scholars find that the English language is often inadequate to express their tribal worldview. Through various terms used in this entry, many critical thinkers suggest that the highest hopes for literacy at this point rest on a vision S. R. Lyons refers to as "rhetorical sovereignty." Indigenous scholar Gerald Taiaiake Alfred counters linguistic imperialism by creating words such as *retraditionalization*.

Summary

To a great extent, decolonization is a process of this retraditionalization. For example, indigenous peoples recover their tribal identities by relearning their historical past, studying their tribal cultures and histories, affirming their ancestors, and assuming responsibility for helping other indigenous peoples decolonize their minds. By expanding on this concept of retraditionalizing programs, indigenous peoples are helping each other build their own sovereign nations. This is the challenge facing new indigenous leadership initiatives today.

Because decolonization as a political process is a struggle to define who indigenous peoples are as tribal people, indigenous peoples are always in the process of reminding themselves of their tribal histories, while creating new ways of knowing tribal worldviews. This educational exercise not only expresses tribal sovereignty, but also liberates the mind from colonized thinking, which is a process of decolonization. Affirming tribal identities transforms ways of looking and being, and thus creates the conditions necessary to move against the forces of domination and extinction and reclaim traditional tribal life.

The thrust of social justice drives many of the theoretical domains and decolonization discourse on indigenous leadership initiatives. The goal of new indigenous leadership is to heal the wounds of past injustices. According to some decolonization scholars, this healing may include an official apology from the United States for the atrocities of history as well as reparations for indigenous peoples. It is, they believe, a question of equity and parity among honorable nations.

See also *Blood Quantum; Education: Boarding Schools; Indian Adoption Project; Indian Child Welfare Act; Pratt, Richard Henry; Sovereignty.*

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BIBLIOGRAPHY

Freire, Paulo, and Myra Bergman Ramos. *Pedagogy of the Oppressed*. New York: Continuum, 1970.

- Lyons, S. R. "Rhetorical Sovereignty: What Do American Indians want from Writing?" *Journal of the Conference on College Composition and Communication*, 51, no. 3 (2000): 447–468.
- Wilson, Wizayatawin Angela, and Michael Yellow Bird, eds. *For Indigenous Eyes Only: A Decolonization Handbook*. Santa Fe, N.M.: School of American Research, 2005.
- Wilson, Wizayatawin Angela, and Wahpetunwin Carolyn Schommer. *Remember This! Dakota Decolonization and the Eli Taylor Narratives*. Lincoln: University of Nebraska Press, 2005.

Deer, Ada E.

Indian rights activist, educator, public figure, and assistant secretary of the interior during the first Clinton administration, Ada E. Deer (1935–) is perhaps best known for her leading role in the restoration of Menominee tribal status, a signal event that helped change the course of Indian policy during the 1970s.

Ada Deer was born on the Menominee reservation in northern Wisconsin, the daughter of Constance Stockton Wood Deer, a social and political activist from a prominent east coast family, and a Menominee father, Joseph Deer.

Deer entered the University of Wisconsin–Madison at a particularly propitious moment. With a logging and lumbering business providing jobs and social services, the Menominees had been identified as one of just ten tribes able to manage their own affairs. In 1953 the U.S. Court of Claims awarded an \$8.5 million (\$7.6 million after legal fees) settlement of a longstanding lawsuit brought by the Menominee against the U.S. government for mismanaging tribal forests. This increased pressure for the Menominees to accept the termination of federal supervision. Senator Arthur V. Watkins (R–Utah), chair of the Senate Subcommittee on Indian Affairs and a leading proponent of termination, unlawfully linked the distribution of per capita payments from the settlement to tribal acceptance of termination, and the Menominees, whose apparent prosperity masked persistent and pervasive poverty, acceded to the senator's demands. House Concurrent Resolution 108 (1953) officially targeted the Menominee for termination, and in 1954 President Dwight Eisenhower signed the enacting legislation. Menominee termination became official in 1961.

Amidst this turmoil, Deer became increasingly active in human rights. In 1954 she participated in the Encampment for Citizenship in New York City, where she attended a workshop on the democratic process. She graduated from the University of Wisconsin–Madison with a degree in social work in 1957, enrolled in Columbia University's graduate program that same year, and began working in New York

settlement houses. By 1964 Deer had worked as a project director with urban Indians in Minneapolis, as community services coordinator for the Bureau of Indian Affairs' Minneapolis area office, and as a social worker for the Minneapolis public school system. Deer became director of Upward Bound for the University of Wisconsin–Stevens Point in 1969, by which time she had joined the board of LaDonna Harris's Americans for Indian Opportunity (AIO).

Back home, the withdrawal of federal protection had driven the new Menominee County into bankruptcy, closing the hospital; crippling the tribe's lumber mill; and leading trustees of Menominee Enterprises Incorporated (MEI), an entity charged with managing collective resources, to contemplate selling reservation lakefront property to non-Indians seeking recreation homes. The Legend Lake initiative led to the creation of the Citizens Association for the Advancement of the Menominee People (CAAMP) in 1963 and the Determination of the Rights and Unity of Menominee Stockholders (DRUMS) in 1970. Both organizations pressed for the repeal of termination, and both counted Deers as leaders: Constance Deer for CAAMP and Ada for DRUMS.

The drive to reverse termination provided Ada Deer with a cause, a vehicle, and an opportunity to hone her considerable skills. In 1969, with the assistance of the state's legal services agency, Deer forced MEI to open its books. DRUMS picketed the Legend Lake sales offices, organized mass marches to the state legislature, and in 1971 forced MEI to expand the number of trustees on its board. Deer and another DRUMS activist captured the two new seats in a special election, and, after failing to force MEI to dissolve itself, petitioned Congress to repeal Menominee termination. Deer testified before congressional committees and engaged in lobbying and fundraising. After being elected chair of MEI in 1971, she moved immediately to open meetings and democratize processes. Largely due to Deer, the lobbying effort succeeded, and President Richard Nixon signed the Menominee Restoration Act in 1973.

Following restoration, Deer chaired a committee to create a new tribal government and served on the 1975 American Indian Policy Review Commission (AIPRC). Among its many recommendations, the AIPRC called upon Congress to transform the Bureau of Indian Affairs into a social services agency and elevate the commissioner's position to that of assistant secretary. During the 1970s and 1980s, Deer was named a fellow at the Harvard Institute of Politics and a senior lecturer in the School of Social Work and Native

American Studies at the University of Wisconsin–Madison. She served on the board of directors for the Native American Rights Fund and chaired it from 1989–1990.

Deer also embarked on a political career. She ran, unsuccessfully, for Wisconsin secretary of state in 1978 and 1982, was credited for introducing an Indian plank in the National Democratic Platform in 1978 and 1982, was appointed to the party's Commission on Presidential Nomination, attended the Democratic convention as an "at large" delegate for Walter Mondale in 1984, and ran as the Democratic candidate for a U.S. House seat in 1992.

In 1993 Congress confirmed Deer's nomination for assistant secretary of interior for Indian affairs, and she became the first woman to head the Bureau of Indian Affairs. During her four-year tenure, 223 Native villages in Alaska and twelve tribes achieved federal recognition, 130 tribes and twenty-four states concluded gaming compacts, and numerous Native communities contracted with the federal government to run their own services. She advised Congress on amendments to the American Indian Religious Freedom Act and the Indian Self-Determination and Education Assistance Act, mediated a dispute between New York and Wisconsin Oneida Nations, and settled a boundary question affecting the Crow reservation.

Despite Deer's many laudable accomplishments, her outspoken advocacy on many issues alienated many people within and without the bureau. On January 9, 1997, President Bill Clinton's interior secretary Bruce Babbitt requested and received her resignation. Deer then returned to Wisconsin, where she chaired the Native American Studies program at the University of Wisconsin–Madison from 1998–2007. She remains active in those causes that interest her, and particularly in the steady growth and maturation of the College of Menominee Nation.

See also *Determination of Rights and Unity for Menominee Stockholders (DRUMS)*; *Eisenhower, Dwight D.*; *House Concurrent Resolution 108*; *Termination and Restoration*; *Watkins, Arthur V.*

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BIBLIOGRAPHY

- Beck, David R. M. *The Struggle for Self-Determination: History of the Menominee Indians since 1854*. Lincoln: University of Nebraska Press, 2005.
- Kidwell, Clara Sue. "Ada Deer/Menominee." In *The New Warriors*, edited by R. David Edmunds, 239–262. Lincoln: University of Nebraska Press, 2001.
- Peroff, Nicholas. *Menominee Drums: Tribal Termination and Restoration, 1954–1974*. Norman: University of Oklahoma Press, 1982.

Wilkinson, Charles. *Blood Struggle: The Rise of Modern Indian Nations*. New York: W. W. Norton, 2005.

Deloria Family

Certainly no other extended family exerted more influence on the course of United States Indian policy and law during the twentieth and twenty-first centuries than the Delorias. While Vine Deloria Jr. represents the best known and most prolific member of the family, the story of the Delorias' involvement in U.S. Indian affairs stretches back to his nineteenth-century ancestors and continues through his children and siblings.

Francois Des Laurias (Deloria), the son of a French fur trapper and a Dakota woman, rose to leadership of the White Swan band during the early stages of the Dakotas' reservation experience in the late 1850s and 1860s. During his time as leader, Deloria demonstrated a unique ability to navigate the cultural gulf between the Yankton Sioux and the federal government, earning him the respect and admiration of both parties.

Francois Deloria's son, Philip (1854–1931), likewise took on the role of Sioux leader and cultural mediator. However, rather than serve in a traditional Sioux leadership position, Philip became the first of the Deloria family to seek understanding and reform by adopting some of the methods and structures of the dominant white society. In 1870, having decided that a white education represented his people's best hope for dealing with non-Indians, he relinquished the opportunity to follow in his father's footsteps as band leader and instead became an Episcopalian. He then left the reservation to attend white schools in Minnesota and Nebraska in preparation to enter the Episcopal clergy. By 1883 he had attained the level of deacon, and, approximately five years later, he became the first Indian to lead an Episcopal mission on a reservation when he was posted to the Standing Rock Sioux reservation. He was also instrumental in the founding of the Brotherhood of Christian Unity movement, which sought to break down denominational barriers among Native Americans. He therefore provided the framework for the pan-Indian political movements of the twentieth-century. In his retirement, Philip Deloria returned to the Yankton Sioux reservation and even represented them in claims meetings during the 1920s when he was well into his seventies. Two of his children, Ella Cara Deloria (1889–1971) and Vine Deloria Sr. (1901–1990), continued the family's work in the areas of religion, activism, and education.

Ella Deloria sought to combat cultural stereotypes of Indian people and exerted tremendous influence on American anthropology, the study of Sioux languages and literatures, and Indian education. Having earned a bachelor's degree from Columbia University, she returned there in 1929 and served as a graduate assistant to the prominent anthropologist Franz Boas. While little known at the time, Ella Deloria's fieldwork among Native Americans provided the basis for much of Boas's most important work. Furthermore, Ella Deloria, much like her father and grandfather, sought to mediate between the world of the Columbia anthropology department and the reservation in an effort to make anthropology more relevant and responsive to the needs and lives of Indian people. Throughout her life she authored seven books—both fiction and non-fiction—most of which were published posthumously due to the twin obstacles of being both a woman and an Indian in early twentieth-century America. She also brought tremendous attention to racial barriers in Indian education and fought for the creation of Native Studies programs on college campuses.

Vine Deloria Sr., Ella's younger brother, was initially uninterested in following his father into the ministry, and he did so reluctantly out of respect for Philip's dying wish that he continue his work in the Episcopal Church. Vine Sr. retired in 1968 after thirty-seven years in the ministry, including postings at the Pine Ridge and Sisseton reservations and the national Episcopal Church headquarters in New York City. Much like his father and grandfather, Vine Sr. succeeded in white society while still retaining his Indian identity and garnered the tremendous respect and admiration of his people. His two sons, Vine Jr., and Sam, continued the Deloria tradition of Sioux leadership during a very critical and turbulent time in the history of relations with the United States.

The accomplishments of Vine Deloria Jr. (1933–2005) as an activist and intellectual rank him as one of the most important Native American leaders. While he is perhaps best known for his activism during the late 1960s and his book *Custer Died for Your Sins: An Indian Manifesto*, his later work as a legal scholar might possibly represent his most lasting impact. In books such as *Behind the Trail of Broken Treaties* and *Tribes, Treaties and Constitutional Tribulations*, Vine Jr. marshaled the dominant society's legal system to the defense of Indian sovereignty, rights, and land preservation. His convincing, and in many cases brilliant, arguments provided a theoretical basis that later Indian legal scholars and activists, including

his own brother Sam, continued to use to defend the concept of tribal sovereignty.

Sam Deloria has spent his entire career in the area of Indian law. As the founder of the American Indian Law Center at the University of New Mexico, he has encouraged generations of Native American law students to dedicate themselves to tribal legal issues. Under his direction, the American Indian Law Center also contributed to the revision of Felix Cohen's *Handbook of Indian Law*. In 1975 he also served as the first secretary-general of the World Council of Indigenous Peoples.

Philip Deloria, the son of Vine Deloria Jr., may possibly exert the greatest impact on Indian-white relations by the time his career as a scholar and teacher comes to a close. Through books such as *Playing Indian* and *Indians in Unexpected Places*, he has already made important contributions to our understanding of the subtle and nuanced ways in which often unrecognized assumptions and expectations among the dominant culture regarding Indians continue to color their treatment and depiction. Breaking through these more insidious and psychological forms of prejudice represents for many Indians and non-Indians the ultimate objective in the long struggle for justice.

See also *American Indian Law Center*; Cohen, Felix S.; Deloria, Vine, Jr.

Ethan A. Schmidt

BIBLIOGRAPHY

- Bruguier, Leonard Rufus. "A Legacy in Sioux Leadership: The Deloria Family." In *South Dakota Leaders*, edited by Herbert T. Hoover and Larry J. Zimmerman, 367–378, 471. Vermillion: University of South Dakota Press, 1989.
- Deloria, Philip, J. *Playing Indian*. New Haven, Conn.: Yale University Press, 1998.
- . *Indians in Unexpected Places*. Lawrence: University Press of Kansas, 2004.
- Deloria, Vine, Jr. *Custer Died for Your Sins: An Indian Manifesto*. New York: Avon Books, 1970.
- . *Behind the Trail of Broken Treaties: An Indian Declaration of Independence*. New York: Delacorte Press, 1974.
- Deloria, Vine, Jr., and David Wilkins. *Tribes, Treaties and Constitutional Tribulations*. Austin: University of Texas Press, 1999.

Deloria, Vine, Jr.

Vine Deloria Jr. (1933–2005) (Standing Rock Sioux), served as a scholarly voice for Native Americans for much of his life. Deloria was born in Martin, South Dakota, to Vine Deloria Sr., an Episcopalian priest, and Barbara Eastman. His

grandfather, Philip Deloria, was one of the first Indians to become an Episcopal priest, and his aunt, Ella Cara Deloria, was an anthropologist of considerable note. After graduating from high school in Faribault, Minnesota, Deloria served in the Marine Corps from 1954 to 1956. He then graduated from Iowa State University in 1958 and from Augustana Lutheran Seminary in 1963.

An outspoken man unafraid to upset others, Deloria began to work on behalf of Native Americans in the 1960s. He believed that education gave Native Americans the means to promote change peacefully rather than through violence. Accordingly, Deloria developed a scholarship program for Native American students through the United Scholarship Service in 1964. He then became the executive director of the National Congress of American Indians in Washington, D.C., from 1964 to 1967. However, by the end of the 1960s, Deloria had become frustrated with his inability to make a difference in the lives of Native Americans. Well aware that many tribes did not know their legal rights, Deloria decided to train Indian attorneys who could help tribes understand their rights and responsibilities. With this goal in mind, he returned to school and earned a law degree from the University of Colorado in 1970. With two other attorneys, he cofounded the Institute for the Development of Indian Law in 1970 to provide training for tribes and educational institutions.

Deloria wanted to make certain that Indians did not forget their roots and also wanted to enlighten whites about Native Americans. In his 1969 landmark work, *Custer Died for Your Sins*, he indicted anthropologists and told them that American Indians refused to be imprisoned by their words and writings. In the process, Deloria helped give birth to the new academic field of American Indian Studies (or Native American Studies), in which Indians themselves would decide what was important.

Deloria taught at Western Washington State College, the University of California at Los Angeles, and the University of Arizona. In 1991 he joined the University of Colorado at Boulder as a faculty member of the history department. He retired from the university in May 2000 and donated his papers to the Denver Public Library.

Deloria published twenty-five books and hundreds of articles and gave thousands of speeches. Over time, he became the best known and most widely respected spokesperson for Indians and one of the most honored Indian writers. Deloria used his writings to plant ideas and question assumptions. His works typically blend theology

with political science, law, and considerable humor. Books such as *We Talk, You Listen* (1970) and *Of Utmost Good Faith* (1971) stress the theme that sin is a major element in American history and whites are the sinners for having stolen and spoiled Indian lands. In all of his works, Deloria asserted Indian rights to the land. He argued that under international law, Native American nations possess an equitable title of occupancy over lands upon which they live and this title can only be lost by voluntary and lawful sale of the lands.

Deloria criticized the research methods employed by other students of Native American issues. Besides challenging the notion that Native American oral histories are less reliable than European-style written documents, he called for researchers to make payments to the Indian community in order to share the benefits of scholarship. He also attacked the idea that Native Americans populated the Western Hemisphere solely by crossing a land bridge from Siberia. Deloria's willingness to take controversial positions did not win him friends throughout the academic world. His challenge to the theory of evolution in *Red Earth, White Lies* (1995) prompted an especially critical response from scientists who accused him of promoting Native American creationism. Deloria died on November 13, 2005, in Golden, Colorado, survived by his wife and three children.

See also *Deloria Family; National Congress of American Indians.*

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BIBLIOGRAPHY

- Biolsi, Thomas, and Larry J. Zimmerman. *Indians and Anthropologists: Vine Deloria, Jr. and the Critique of Anthropology*. Tucson: University of Arizona Press, 1997.
- Deloria, Vine, Jr. *Behind the Trail of Broken Treaties: An Indian Declaration of Independence*. New York: Delacorte, 1974.
- . *Custer Died for Your Sins: An Indian Manifesto*. New York: Macmillan, 1969.
- . *God is Red*. New York: Grosset & Dunlap, 1973.
- . *Singing for a Spirit: A Portrait of the Dakota Sioux*. Santa Fe, N.M.: Clear Light, 2000.
- Johansen, Bruce E. *Shapers of the Great Debate on Native Americans: Land, Spirit, and Power*. Westport, Conn.: Greenwood Press, 2000.

Determination of Rights and Unity for Menominee Stockholders (DRUMS)

The group Determination of Rights and Unity for Menominee Shareholders (DRUMS) challenged federal control over Indians. In 1954 Congress passed legislation ter-

minating the Menominee Tribe of Wisconsin as a federally recognized tribe. The Menominees were selected in part because the tribe had successful forestry and lumbering operations that gave it a strong economic standing. The tribe was given an \$8.5 million settlement for federal mismanagement of the forestry enterprises once they agreed to comply with termination, a requirement later recognized as illegal. In the process of termination, all tribal property was transferred to a corporation, Menominee Enterprises, Inc. (MEI). Each Menominee was considered a shareholder in MEI. Termination of federal involvement left the Menominees without sufficient funding to provide basic services such as a police force, waste disposal, and firefighting capabilities; as a result, the Menominee standard of living dropped. MEI proposed to raise funds by selling tribal land to a private developer who would sell lots to non-Indians.

James White, Ada Deer, and others created DRUMS in 1970 to regain federal recognition for the Menominees and to oppose the land sale. They organized protests and presented candidates for election to MEI's board of directors. In 1971 DRUMS won two seats on the eleven-member board. In 1972 DRUMS gained majority control on the board and blocked the land sale. DRUMS also sought to reverse termination and regain the Menominees' status as a federally recognized tribe. The Menominees succeeded with 1973 federal legislation restoring their status. After DRUMS disbanded, Ada Deer headed the Menominee Restoration Committee to reorganize the tribe with respect to its new status.

See also *Deer, Ada E.; Termination and Restoration.*

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BIBLIOGRAPHY

- Beck, David R. M. *Siege and Survival: History of the Menominee Indians, 1634–1856*. Lincoln: University of Nebraska Press, 2002.
- . *The Struggle for Self-Determination: History of the Menominee Indians Since 1854*. Lincoln: University of Nebraska Press, 2005.
- Peroff, Nicholas C. *Menominee Drums: Tribal Termination and Restoration*. Norman: University of Oklahoma Press, 1982.
- Spindler, George, and Louise Spindler. *Dreamers with Power: The Menominee*. Prospect Heights, Ill.: Waveland Press, 1984.
- Wilkinson, Charles. *Blood Struggle: The Rise of Modern Indian Nations*. New York: Norton, 2005.

Diplomatic Delegations, Tribal

American Indian nations practiced diplomacy hundreds of years before the founding of the United States—with other tribes, with the colonial authorities, and with other countries.

Tribes often sent out delegations to meet with other tribal nations about trade, territorial rights, and war and peace. When Europeans began settling in North America, tribes sent diplomatic representatives to the colonial assemblies, to governors' offices, and to Europe to negotiate issues of land cession and trade and to settle disputes between their people and colonials. In 1710 Peter Schuyler, the mayor of Albany, brought a delegation of four Mohawks to England in an effort to persuade Queen Anne to provide support for a colonial war against French Canada. In 1725 France hosted representatives from the Otos, Missouris, Osages, and the Illinois Confederacy of tribes in an effort to secure their alliance and trade. In 1730 a group of seven Cherokees visited London. And four years later, a group of fourteen Creeks traveled with James Oglethorpe, the founder and governor of Georgia, to the English capital to meet the king.

Native diplomats were typically very skillful in their work, and, for the most part, they established the formal protocols that marked negotiations between European and Indian nations. But they did not always receive courtesy in kind: the Jamestown colony invited area chiefs to a peace negotiation and then poisoned their drinks. Eventually, the colonies and European powers became more hospitable, even though their motives might have been ulterior.

Later, the U.S. government regularly received Native delegations. One of the earliest documented instances in U.S. history of a Native diplomatic delegation was the Haudenosaunee (Iroquois) delegation that traveled from Albany to Philadelphia in 1776. The representatives lodged for a month above the chamber in which the first Continental Congress was in session. In 1783 Seneca chief Cornplanter organized a delegation to Fort Stanwix, in New York, where the United States and the Six Nations Iroquois Confederacy were negotiating a treaty. After the Lewis and Clark Expedition of 1804–1806, the tribes encountered by the explorers along the way sent emissaries to visit President Thomas Jefferson in Washington.

In the nineteenth century, tribes sent representatives to the U.S. capital to conduct negotiations on many issues. They pleaded with the government to remove American trespassers from their territory and asked for compensation for the depredations of white squatters. They also negotiated treaties and land cessions, renegotiated annuities, and settled boundary disputes and conflicts with the United States or with neighboring tribes. The visits typically included tours of the Capitol and the city, with the Indian diplomats staying in a hotel or boarding house. The official visits usually

included an exchange of gifts of various sorts. The Natives may have offered the handiwork of their people, while the U.S. government supplied their Indian visitors with medals, uniforms, flags, canes, guns, knives, and other symbols of influence and power. For the Indian diplomats, the highlight of the visit was usually a personal meeting with the Great Father, the president of the United States. Those Native representatives who were turned away from meeting the chief executive were often disappointed and angry.

Almost every tribe sent representatives to Washington at one time or another, some more regularly than others. The Cherokee Nation maintained a representative in Washington, D.C., for weeks at a time during much of the nineteenth century. During the Removal Crisis from about 1827 to 1838, John Ross, the Cherokee chief, and other Cherokee leaders traveled to Washington to persuade the federal government to forestall the state of Georgia's encroachments on its territory. Later, the Cherokee leaders lobbied Congress, the president, and the secretary of war, without success, to abandon the government's plans to remove the Cherokees west of the Mississippi River.

Because on occasion Native representatives appeared uninvited at the White House or the Capitol, in the late nineteenth century the government devised a policy that prohibited visits by unauthorized delegations.

Meanwhile, the government tried to ensure that those Native diplomats who did visit the nation's capital were intimidated by the size and power of the United States. Although tribal leaders may have thought that by traveling to the capital they could avoid having to deal with unscrupulous federal agents like those often found near their homes, they soon learned that moving diplomatic discussions to Washington did not prevent government agents from attempting to coerce agreements from tribal leaders or obtain the agreements by other nefarious means. For example, in 1865 Struck by the Ree, a Yankton Sioux chief, told the Doolittle Commission (which was investigating the conditions of Indians in the West) that when the Yankton delegation went to Washington in 1858 to negotiate their final land cession and reservation treaty, his companions were kept drunk for four days until they acquiesced and signed the treaty. According to one scholar, the government also may have provided Indian diplomats with prostitutes, or at least looked the other way when those professionals came to ply their trade.

Even after the treaty era ended in 1871, Indian tribes continued to send delegations to Washington, and many fell prey

to unscrupulous lobbyists. In a letter to her son in 1931, Yankton Sioux activist and reformer Gertrude Bonnin told of Indian delegates in Washington being followed right into their hotel rooms and enticed with whiskey. She urged tribal delegates to stay together and watch out for the "schemers." And yet, despite occasional disagreements, condescending insults by U.S. officials, and heavy-handed efforts to intimidate their Indian guests, the practice of diplomacy did encourage the growth of peaceful relations between the United States and most tribes.

Today, many tribes maintain offices in Washington, D.C., and employ their own attorneys, lobbyists, and other professionals to state their cases and negotiate their positions with the federal government.

See also *Bonnin, Gertrude; Removal; Ross, John; Treaties: Historical Overview; Treaty Making: Protocols; Washington, George.*

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BIBLIOGRAPHY

- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Viola, Herman J. *Diplomats in Buckskin: A History of Indian Delegations in Washington City*. Norman: University of Oklahoma Press, 1995.

Discovery, Doctrine of

The New World was colonized under an international legal principle known as the doctrine of discovery. When Europeans and Americans set out to explore and exploit new lands in the fifteenth through the twentieth centuries, they justified their governmental and property claims over these territories and the indigenous people residing in them with the doctrine. This principle, which was established by the Catholic Church during the Middle Ages and applied by the European nations that explored and settled the western hemisphere, was grounded in the belief that Christian nations possessed powers of sovereignty and national title superior to those of indigenous peoples. In reality, if challenged by the indigenous residents, the doctrine of discovery was only useful if it could be enforced by military power.

The doctrine provided that Christian nations acquired rights of property upon the discovery of previously unknown lands. The discovering nation also gained governmental, political, and commercial rights over the inhabitants without the knowledge or the consent of the Native residents. When Europeans and Americans planted their flags and displayed their religious symbols in "newly discovered"

lands, they were undertaking the established legal procedures and rituals designed to demonstrate a legal claim over the lands and peoples. Indigenous people strongly objected to the application of this international law, but the doctrine was still being applied in international and American law in the early twenty-first century.

The English colonists who settled in North America, and the U.S. state and federal governments that followed, all used the doctrine and its foundation of cultural superiority to seize dominion over territory in North America. The United States used the doctrine as a legal rationale to justify the appropriation of Indian land.

The doctrine of discovery is comprised of several underlying assumptions:

- 1) First discovery. The first Euro-American country to discover new lands unknown to other Europeans or Americans gained property and sovereign rights over the lands;
- 2) Actual occupancy and current possession. To fully establish a first discovery claim, an American or European country had to occupy and hold the newly found lands by actual physical possession. Possession was proved by building a fort or settlement and by leaving soldiers or settlers on the land. This occupation had to take place within a reasonable length of time after the first discovery;
- 3) Right of Preemption. The discovering Euro-American country gained the power of preemption, that is, the sole right to buy the land from the Native people. The government that held the discovery power of preemption had the right to prevent or preempt any other European or American government or individual from buying land from the indigenous peoples;
- 4) Indian title. After first discovery, indigenous peoples were considered by Euro-American legal systems to have lost the full property rights and ownership of their lands. They retained only the right to occupy and use their land. If they ever chose to sell land, they could sell only to the Euro-American country that held the right of preemption;
- 5) Tribal limited sovereign and commercial rights. After first discovery, the Indian nations and indigenous peoples were also considered to have lost some of their inherent sovereign powers and the right to trade and conduct diplomatic relations with any government or people they chose. Instead, they could only trade and engage in diplomatic relations with the Euro-American government that had first discovered them;
- 6) Contiguity. Euro-Americans held a discovery claim to a reasonable and significant amount of land contiguous to and surrounding the lands that they actually possessed in the New World. Moreover, the element of contiguity provided that the discovery of the mouth of a river gave the discovering country a claim over all the lands drained by that river, even if that constituted thousands of miles of territory;
- 7) *Terra nullius*. This Latin phrase means a land or earth that is null or void. Under discovery, it meant that vacant lands could be seized by the discovering nation;
- 8) Christianity. Non-Christian people were not deemed to have the same rights to land, sovereignty, and self-determination as Christians;
- 9) Civilization. Euro-Americans thought that God had directed them to bring civilization (as they defined it), education, and religion to indigenous peoples and to exercise paternalistic and guardianship authority over them;
- 10) Conquest. According to this element, a nation acquired the right to extend its legal and political dominion over a people it conquered. But “conquest” also provided that the mere discovery of new lands and peoples created the same legal result and limitation on Native rights as if Euro-Americans had actually conquered the indigenous peoples in a war.

In 1823, in *Thomas Johnson and Graham's Lessee v. M'Intosh*, the United States Supreme Court decided that the doctrine of discovery served as the legal basis for the United States's authority over the lands within its borders, and that it held a title superior to that of Native Americans residing within American borders. The decision still stands and is one of the founding decisions of federal Indian law.

See also *Conquest, Doctrine of*; *Johnson v. M'Intosh* (1823).

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BIBLIOGRAPHY

- Thomas Johnson and Graham's Lessee v. M'Intosh*, 21 U.S. 543 (1823).
 Miller, Robert J. *Native America, Discovered and Conquered: Thomas Jefferson, Lewis & Clark, and Manifest Destiny*. Westport, Conn.: Praeger, 2006.

- Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005.
- Williams, Robert A., Jr. *The American Indian in Western Legal Thought: The Discourses of Conquest*. New York: Oxford University Press, 1990.

Disease

The health of indigenous peoples in North America throughout the centuries has been characterized by a series of epidemiological transitions, or changes in disease and health patterns, highlighted by several distinct eras. Prior to European colonization, during the Pre-Contact or Prehistoric Era, Native Americans faced a number of endemic diseases (diseases confined to a specific place or people), traumatic injuries, and occasional nutritional afflictions. After contact with Europeans and Africans, imported Old World diseases altered indigenous disease and health patterns. Severe epidemics and pandemics killed many Natives. Another epidemiological transition occurred with the settlement of Native Americans on reservations. During the early reservation period, from about 1875 until the early 1950s, the various infectious diseases that afflicted Native Americans were eventually brought under control due to improved health care and social conditions. However, as the infectious diseases declined, chronic diseases—those that last a long time or recur frequently—emerged and brought new health concerns. Native Americans in the early twenty-first century continue to experience poorer levels of health in comparison to the general United States population.

Pre-Contact Disease and Health Patterns

Scientific knowledge about the specific diseases and afflictions that occurred across prehistoric Native North America is growing rapidly, as new techniques such as DNA extraction from skeletal remains are revealing new insights into the health of indigenous populations. New biological and archaeological data are uncovering the range of variation in health status between Native populations, and have shattered the stereotype that Native North America was nearly a disease-free paradise before the arrival of Europeans. In fact, reconstructions of pre-Columbian epidemiology reveal that Native North American health status was lower than previously expected or assumed. Demographically, Native North America populations as early as 1300 C.E. may have already been in decline. Scientists are now suggesting that the New World was possibly already in a state of extreme epidemio-

logical and demographic change prior to contact with Europeans.

Evidence gained from skeletal materials, in combination with archaeological, genetic, and early historical data, has revealed that pre-contact indigenous populations suffered from numerous afflictions. Malnutrition, anemia, tuberculosis, treponematoses (a type of syphilis), along with several other degenerative, chronic, and congenital (present at birth) conditions plagued prehistoric Native populations.

In addition to the viral, bacterial, and nutritional afflictions, Native populations also experienced periodic trauma such as accidents, warfare, homicides, and sometimes culturally sanctioned practices that resulted in sickness or death. Each indigenous society faced different disease and health challenges depending on local environmental and social conditions, and these major health variables largely determined pre-contact morbidity and mortality patterns.

Post-Contact Disease and Health Patterns

European contact with indigenous societies brought changes in Native health patterns, and most tribes witnessed a decline in both health and population. A prominent factor was the introduction of Old World infectious diseases such as smallpox, measles, or Asiatic cholera, all of which had originated among European and African populations. Most Native societies, after contracting such a disease, experienced severe elevations in morbidity and mortality, especially if the society had no prior exposure to that particular infection. Populations like these, with no previous exposure to a particular disease, are referred to as “virgin soil populations,” and a large number of their members are susceptible to contracting the disease.

Generally, Natives were viewed by the newly arrived Europeans as racially inferior and living largely in a state of savagery. Therefore many European scholars, colonial bureaucrats, and religious authorities viewed the spread of introduced diseases and resultant Native American population decline as either God's will or an effective way to rid the New World of savages so civilization could flourish. Reports of using introduced diseases to purposely reduce Native populations began soon after Europeans arrived in the Americas. Perhaps the most frequently cited occurrence of using smallpox against Native Americans occurred in 1763 during Pontiac's Rebellion. In series of letters written between British commander Jeffery Amherst and his military officers, Amherst ordered the purposeful infection of the Indians using blankets tainted with smallpox. Native American sus-

ceptibility to European infectious diseases and their resulting population decline offered Europeans confirmation for their belief that indigenous people were a vanishing race destined to become extinct.

The impact of introduced European infectious diseases, especially as it pertained to the rate of population decline, remains an issue of scholarly debate. At the core of the debate are two major points of consideration. The first is determining the at-contact population of Native North America, which partially determines the extent of diffusion and severity of Old World infectious diseases. The other issue is the magnitude of population decline among indigenous societies.

Prior to 1966 scholars contended that Native North America population numbers were low, reflecting beliefs that Native American societies were culturally primitive, with unsophisticated technologies and relatively low levels of social complexity that could not support high population densities. However, a growing body of archaeological evidence being discovered mid-century revealed the existence of regional complex social systems and high population densities, accompanied by a technological sophistication that often surpassed achievements in Europe during the same era. Despite this evidence, however, many scholars continued to cling to the mythology of the “primitiveness” of pre-contact Native America with low population densities.

In 1966 Henry Dobyns broke from previous interpretations by proposing that as many as 9.8 million indigenous people may have inhabited Native North America prior to European arrival. His radical revision, especially after he amended his figure upward to eighteen million people, began a scholarly debate that continues into the early twenty-first century. Within the debate are three critical issues that must be determined about Native American depopulation. First is the question of the nature and timing of Native American-European interaction, which is necessary to initiate and sustain continued demographic collapse. Second is the question of the magnitude of mortality following European colonization. Last is what role introduced infectious diseases had on Native American demographic and social change. All three of these issues remain dependent on a central question—how many Native Americans inhabited the continent at the time of contact? Regardless of the differences in scholarly opinion, it is generally accepted that indigenous societies across Native North America experienced, at the least, an estimated 72 percent decline in population before reaching their lowest level in 1890.

Many indigenous societies experienced increases in warfare with Europeans and other Native Americans. Some also faced decreases in available subsistence resources, the loss of lands, and other consequences associated with European settlement. These factors, in combination with infectious diseases, altered the tribal health statuses.

Numerous diseases affected indigenous populations after contact with Europeans. Major recorded diseases included smallpox, measles, bubonic plague, cholera, diphtheria, influenza, scarlet fever, and typhus. Among all of the infectious diseases transported from the Old World to the New World, smallpox has been implicated as the major cause of sickness and death among indigenous societies. The impact of smallpox was recorded in Aztec collections of laws, Plains Indian winter counts (important events drawn on animal hides), and various tribal oral traditions across Native North America.

One of the most devastating epidemic episodes historically documented is the 1837–1838 smallpox epidemic. On the Great Plains, for example, most societies became infected. Among the northern Plains tribes it is estimated that some 17,200 people died, including 8,160 Blackfeet, before the disease had run its course. By the time Plains tribes were confined to reserves, population losses ranged from 98.3 percent among the Mandans to 13 percent for the Arapahos.

Epidemics affected other tribes as well. Over time, many of them, such as the Coahuiltecos of the extreme southern Plains, the Calapooyas of central Oregon, the California Yahis, and the Saponis and Tutelos of Virginia, went biologically and culturally extinct. Epidemic episodes often resulted in a breakdown in the social system, crippling the abilities of the younger, stronger tribe members to care for the sick. The result was heightened morbidity and mortality.

Introduced pathogens not only created a high degree of physical stress, but also sustained cultural stress. These radical health changes challenged Native American cultural beliefs about health and well-being. Despite this, each society attempted to provide culturally relevant diagnoses and cures for the introduced diseases. Medicine people employed a number of religious ceremonies, rituals, and techniques to heal sick individuals and society and reaffirm or restore the perceived relationship between Natives and their world. These healers attempted to use supernatural aids and plant medicines to prevent and cure illnesses. Most indigenous techniques, however, similar to the medical practices among European populations during the same time period, did not alter significantly the course of the affliction with respect to morbidity and mortality.

In response to diseases of European origin and their consequences, Native societies employed a number of adaptive strategies to increase their depleted populations. They altered their kinship and marital practices, often creating more flexible social organizations. Occasionally, remnant tribes would come together to form new tribal societies. Many tribes also began to incorporate and adopt other Native Americans, Europeans, and Africans into their societies to replace people lost to disease.

Tribes also altered their medical systems, sometimes incorporating select western medical techniques such as vaccination along with their established indigenous practices. Native American societies also changed their ideological systems to explain European-borne pathogens.

As European infectious diseases ravaged indigenous societies, basic health services for American Indians began in 1819 under the sponsorship of the War Department. Army physicians, along with missionaries and traders, occasionally administered medical care to Indian peoples. Although some U.S. treaties offered health care as part of their conditions, sustained western medical services did not occur until Native American societies were confined to reservations. Thus, European medical care had little impact in arresting indigenous health problems.

Reservation Disease and Health Patterns

With their confinement on reservations, Native American tribes experienced another epidemiological transition. Severe infectious diseases still occurred from time to time, but eventually those infections gave way to afflictions associated with the impoverished conditions of reservation life. Influenza, tuberculosis, conjunctivitis, trachoma, and dysentery—all diseases often associated with poverty and crowded living conditions—emerged in epidemic proportions. During the 1890 influenza outbreak among the Sioux living at the Crow Creek reservation, the agency physician reported an average of six deaths per day. A 1921 report to Congress concluded that the Native American death rate from 1880 to 1913 steadily increased from 23.6 per 1,000 Indians to 32.24 per 1,000. By 1900 trachoma was being diagnosed in up to 40 percent of the population in some tribes.

In 1873 the Office of Indian Affairs developed a basic structure for reservation health care delivery under the Division of Education and Medicine. Over the next forty-eight years, a system of hospital-based care and a civilian corps of physicians and field matrons were instituted. The

Indian Office created a system of tuberculosis sanatoria and by 1935 instituted widespread tuberculosis vaccinations. Reservation medical services targeted trachoma, infant mortality, and other afflictions and instituted a number of treatment strategies to alter Native American health behaviors and beliefs. Under the forced assimilation policy, indigenous life ways, especially religious and medical practices, faced obvious persecution from government officials. In 1883 courts of Indian offenses were created to halt, by force if necessary, any Native practices regarded as a hindrance to “civilized” progress. This led to the rejection of Western medical practices by many Indians who believed their cultural healing and religious beliefs were being destroyed. This issue, as well as inadequate facilities, a lack of medical supplies, and geographic isolation, plagued U.S. Indian health care prior to 1940.

Contemporary Disease and Health Patterns

A number of changes in health care delivery were initiated in the post-World War II era. The transfer of American Indian health management to the U.S. Department of Health, Education, and Welfare in 1954 marked a dramatic change, altering disease patterns among Indians. The Indian Health Service (IHS), which was established in 1955, made strides to improve reservation sanitation and nutrition, and to promote health education. The goal of the IHS is to achieve a level of health for American Indians and Alaskan Natives that is comparable to that of the general population. Despite its efforts, however, American Indians’ health in many areas remains below the national average. Primary health care has become more comprehensive, but preventive health care and sustained public health efforts continue to lag behind.

Native Americans have similar epidemiological and demographic profiles as those of people residing in developing countries. Their populations are younger, less educated, and poorer than the general populations of industrialized countries. Their societies have high fertility and mortality rates, with prevalent rises in chronic diseases and social pathologies. Overall, the percentage of American Indians living below the poverty level is 2.4 times higher than the United States All Races average. Impoverished conditions, combined with high unemployment, lower educational achievements, and substandard living conditions affect health status and needs, magnifying the probability of contracting an illness.

Sensitive indicators of health are infant mortality and life expectancy. Although there have been significant declines in

infant mortality among Natives, the rate for indigenous populations remains 22 percent higher than the U.S. All Races rate. However, significant regional differences occur. Among American Indians using the Aberdeen Indian Health Service Area, one of the sixteen health service areas across the United States, for example, the infant mortality rate exceeds the U.S. rate by over 50 percent.

Since 1940, the life expectancy for American Indians and Alaska Natives has risen steadily, although it remains below the national rate. Native people living in the United States have an average life expectancy at birth of 68.7—seven years less than the U.S. All Races rate. At present the three leading causes of death for Native peoples are diseases of the heart, malignant neoplasms, and accidents. Diabetes mellitus and chronic liver disease and cirrhosis rank fourth and fifth as leading causes of death.

Other serious health problems affecting indigenous peoples are injuries and social pathologies. Recent comparative health data has revealed that American Indians and Alaska Natives experience alcoholism and substance abuse, deaths by injuries, homicides, and family violence at rates significantly higher than the general population. According to 2007 statistics, greater than one-third of resource demands made on Indian Health Service facilities are directly related to mental health, alcoholism, or substance abuse.

Indigenous peoples now have to contend with another imported epidemic, the Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS). Currently American Indians and Alaska Natives are ranked third in the nation in the rate of AIDS infection when compared to other major races and ethnicities. HIV/AIDS infection has steadily increased, and in 2005 the rate was 10.4 per 100,000 among American Indians and Alaska Natives.

Although the statistics reveal how large the gap is in health equity between the nonindigenous and indigenous populations, improvements have been made on a number of health fronts. The Indian Health Service faces a monumental task in providing primary and preventive health care in an environment of massive underfunding. The Federal Disparities Index recently revealed that IHS funding fell \$1.7 billion short of equality with mainstream health plans. This means that about 160 IHS and tribal facilities are delivering health care with funding at less than 60 percent of benchmark costs.

Through legislative acts, tribes are assuming greater responsibility in controlling their health resources and defining and targeting their health needs. Indigenous peoples are

integrating traditional medical practices with western medical techniques to address their health concerns in a culturally appropriate manner.

See also *Indian Health and Healthcare; Smallpox.*

Gregory R. Campbell

BIBLIOGRAPHY

- Campbell, Gregory R., ed. "The Changing Dimension of Native American Health: A Critical Understanding of Contemporary Native American Health Issues." *American Indian Culture and Research Journal*, vol. 13, no. 3–4 (1989): 1–20.
- Dobyns, Henry F. *Their Number Becomes Thinned: Native American Population Dynamics in Eastern North America*. Knoxville: University of Tennessee Press, 1983.
- Ewers, John C. "The Influence of Epidemics on the Indian Populations and Cultures of Texas." *Plains Anthropologist*, vol. 18 (May 1973): 104–115.
- Joe, Jennie R. "Health: Traditional Indian Health Practices and Cultural Views." In *Native American: Portrait of the Peoples*, edited by Duane Champagne, 525–547. Detroit: Visible Ink Press, 1994.
- Kunitz, Stephen J. *Disease and Social Diversity: The European Impact on the Health of Non-Europeans*. New York: Oxford University Press, 1994.
- Larsen, Clark Spencer, and George R. Milner, eds. *In the Wake of Conquest: Biological Responses to Conquest*. New York: Wiley-Liss, Inc., 1994.
- Office of Technology Assessment. *Indian Health Care*. Washington, D.C.: U.S. Government Printing Office, 1986.
- Ogunwole, Stella U. *We the People: American Indians and Alaska Natives in the United States*. Washington, D.C.: U.S. Department of Commerce, U.S. Census Bureau, 2006.
- Thornton, Russell. *American Indian Holocaust and Survival: A Population History Since 1492*. Norman: University of Oklahoma Press, 1987.
- Thornton, Russell. *The Cherokees: A Population History*. Lincoln: University of Nebraska Press, 1990.
- U.S. Department of Health and Human Services. *Behavioral Health*. Washington, D.C.: U.S. Government Printing Office, 2007.
- U.S. Department of Health and Human Services. *Diabetes*. Washington D.C.: U.S. Government Printing Office, 2007.
- U.S. Department of Health and Human Services. *Indian Health Service Year 2007 Profile*. Washington, D.C.: U.S. Government Printing Office, 2007.
- U.S. Department of Health and Human Services. *Indian Population*. Washington, D.C.: U.S. Government Printing Office, 2007.
- U.S. Department of Health and Human Services. *Personal Health Services and Funding Disparities*. Washington, D.C.: U.S. Government Printing Office, 2007.
- U.S. Department of Health and Human Services. *Trends in Indian Health, 1998–99*. Washington, D.C.: U.S. Government Printing Office, 2000.
- Verano, John W., and Douglas H. Ubelaker, eds. *Disease and Demography in the Americas*. Washington, D.C.: Smithsonian Institution Press, 1992.
- Young, T. Kue. *The Health of Native Americans: Towards a Biocultural Epidemiology*. New York: Oxford University Press, 1994.

Dole, William P.

William P. Dole (1811–1889) served as commissioner of Indian affairs from 1861 until 1865. Born in Vermont, Dole moved to Ohio before spending several years as a merchant and politician in Indiana. In 1860 he settled in Illinois and became a significant force in Republican politics.

Appointed to office by his personal friend, President Abraham Lincoln (1809–1865), Dole knew little about Indian affairs. He supported the policy of removing tribes to reservations as a step toward allotment in severalty and the assimilation of Indians into mainstream American culture. He also worked to appoint honest men as agents for the Indian bureau.

Dole was unable to prevent the Creeks, Choctaws, Chickasaws, Cherokees, and Seminoles from signing treaties of alliance with the Confederacy at the outbreak of the Civil War, and he later suggested that tribes allied with the Confederacy should surrender territory to make room for the western tribes. After he left office, the U.S. government did remove several western tribes to the Indian Territory.

At a time when many in the United States were pushing Congress to abandon the practice of dealing with the tribes by treaty, Dole was a steadfast supporter of the system. His administration signed over forty treaties with numerous tribes; many of them, however, were not ratified by the Senate. Dole was particularly noted for arguing for the recognition of land titles for tribes in the Southwest and California, and some of his treaties with the nations in that region laid the groundwork for the eventual recognition of their claims in the twentieth century.

Although he was not directly implicated in the event, Dole was forced out of office in the wake of the national scandal that erupted after the Sand Creek massacre of November 29, 1864, in which Colorado Territory militia murdered over 150 defenseless Cheyenne and Arapaho men, women, and children.

See also *Allotment in Severalty; Assimilation and Acculturation; Civil War; Removal; Sand Creek Massacre (1864).*

Patit Paban Mishra

BIBLIOGRAPHY

- Kelsey, Harry. "William P. Dole and Mr. Lincoln's Indian Policy." *Journal of the West*, vol. 10 (July 1971): 484–492.
- Kvasnicka, Robert M., and Herman J. Viola, eds. *The Commissioners of Indian Affairs, 1824–1977*. Lincoln: University of Nebraska Press, 1979.

Nichols, David A. *Lincoln and the Indians: Civil War Policy and Politics*. Urbana: University of Illinois Press, 2000.

Donation Land Law

The U.S. Congress passed the Donation Act on September 27, 1850, to support the settlement of the Oregon Territory through federal land surveys and grants, and, more broadly, to contribute to the legal transfer of land from Indian ownership, or "aboriginal title," to American citizen-farmers. Between the mid-1830s and 1848, settlers informally claimed Indian lands for their homes, farms, ranches, and schools, while the Oregon Country (an area encompassing the present-day states of Oregon, Washington, Idaho, as well as portions of Wyoming, Montana, and the Canadian province of British Columbia) remained jointly occupied by the United States and Great Britain. Federal law did not recognize the validity of these land claims because they existed outside the borders of the United States and were situated on unsurveyed, Indian-owned land.

Although the negotiation of the Oregon Treaty between Great Britain and the United States in 1846 placed the majority of these illegal land claims within U.S. territory, they remained Indian land. The Oregon Territorial Act of 1848, which created the Oregon Territory, explicitly honored Indian property rights "so long as such rights shall remain un-extinguished by treaty between the U.S. and such Indians." Hence, when the Oregon Country achieved territorial status, Congress faced the dilemma of "delayed extinguishment"—acquiring legal title to tribal land *after* non-Indian settlement had occurred.

This pre-1848 Euro-American settlement, particularly within the Willamette and Rogue River valleys, had progressed in direct violation of federal law and systematically displaced and dispossessed the tribes of western Oregon. To secure the legal standing of these "squatters," Samuel Thurston, Oregon's territorial delegate to Congress, introduced a resolution to the House of Representatives in February 1850 appealing for the enactment of federal legislation to sanction his constituents' preexisting land claims. The product of Thurston's resolution, the Donation Act, represented both a profound revolution in social order and an extension of federal Indian policies of removal and reservation. On one hand, the bill allowed whites and "American half-breed Indians" of all classes above the age of eighteen the opportunity to acquire land for free. For the first time in American history, small farmers no longer had to bid com-

petitively for land against wealthier buyers or pay a fixed per-acre price. The Donation Act granted 320 acres to authentic settlers who resided in Oregon on or before December 1, 1850, and permitted married settlers to claim an additional 320 acres in their wives' names. Donation Act claimants secured land through their labor rather than capital, and had to prove four years of continuous occupancy and cultivation.

On the other hand, the Donation Act ignored the past illegal occupation of Native lands and allowed settlers to file "new" Donation Land Claims after the completion of the federal land survey and negotiation of treaties with tribes relinquishing or "extinguishing" their property rights. To speed the extinguishment of Native land title, Congress passed the companion Indian Treaty Act of 1850, which authorized commissioners to negotiate treaties of land cession. Between 1853 and 1855, Oregon pioneer Joel Palmer, superintendent for Indian affairs for the territory, negotiated a series of ratified treaties that forcibly removed the western Oregon tribes—including the Kalapuyas, Mollalas, Umpquas, Rogue River Chastas, Scotons, and Confederated Bands of the Willamette Valley—to the coastal Siletz and Grand Ronde reservations.

Ultimately, the Donation Act modeled a legal process for the Euro-American resettlement of the tribal lands, one that was applied throughout the West by the Homestead Act of 1862. In Oregon, the Donation Act hastened a second wave of overland migration and patented 7,437 land claims totaling over 2.6 million acres.

See also *Homestead Act of 1862*; Palmer, Joel; *Removal*.

Kevin D. Hatfield

BIBLIOGRAPHY

- Bergquist, James M. "The Oregon Donation Act and the National Land Policy." *Oregon Historical Quarterly*, vol. 58 (March 1957): 17–47.
- O'Callaghan, Jerry A. *The Disposition of the Public Domain in Oregon*. New York: Arno Press, 1979.
- O'Donnell, Terence. *An Arrow in the Earth: General Joel Palmer and the Indians of Oregon*. Portland: Oregon Historical Society Press, 1992.

Doolittle Committee

See *Sand Creek Massacre (1864)*; *U.S. Indian Policy: Congress and the Executive, 1871–1934*.

Dragging Canoe

Dragging Canoe (d. 1792; Cherokee names: Tsi-yugunsini, Chincanacina) led the Cherokee military resistance against

settlers in the Tennessee Valley from 1775–1792. He opposed the purchase of the northern half of Cherokee country in 1775 by Richard Henderson, a North Carolina judge and speculator. He organized the Cherokee dissidents and attacked the settlers in eastern Tennessee in 1776 in an effort to force them to return east of the Appalachian Mountains. After being repelled by settler militias, Dragging Canoe and the other dissenters, later called Chickamaugans, moved from the Upper Cherokee Towns. After resettling, they made alliances and trade agreements during the 1780s and early 1790s with the British, French, Spanish, Creeks, and Shawnees in an effort to prevent further encroachment and expel intruders.

During the 1780s the Chickamaugan resistance slowed settler growth in the Tennessee region, particularly the Cumberland area around Nashville, and created a robust trade in stolen horses and slaves. Forced to move farther southwest around 1782, the Chickamaugans created thriving multicultural towns, called the Lower Towns, in present-day southern Tennessee and northern Alabama. The Chickamaugans joined with the Upper Towns in 1788 after the massacre of most major Upper Town peace chiefs by American militiamen.

By 1789 Dragging Canoe and other leaders sought peace with the United States. Dragging Canoe died of an illness in 1792 while organizing resistance to the unsatisfactory Treaty of Holston of 1791, in which the United States pressured or tricked the Cherokees into making a large land cession.

See also *Cherokee War of 1776*; *Removal*; *U.S. Indian Policy: Congress and the Executive, 1775–1803*.

Cynthia Cumfer

BIBLIOGRAPHY

- Cumfer, Cynthia. *Separate Peoples, One Land: The Minds of Cherokees, Blacks, and Whites on the Tennessee Frontier*. Chapel Hill: University of North Carolina Press, 2007.
- Finger, John R. *Tennessee Frontiers: Three Regions in Transition*. Bloomington: Indiana University Press, 2001.
- Hatley, Tom. *The Dividing Paths: Cherokees and South Carolinians through the Era of Revolution*. New York: Oxford University Press, 1993.

Dull Knife

Known to his Northern Cheyenne people as Morning Star, Dull Knife (c. 1810–1883) earned a reputation as a courageous warrior in battles against the Crows and Shoshones. During the Bozeman Trail War (1865–1868), he allied with the Lakotas to drive the Americans out of the Powder River

country. Despite his bravery on the battlefield, however, Dull Knife eventually realized that further military resistance to the invasion of American settlers was futile and began pursuing a policy of peace.

After signing the Fort Laramie Treaty (1868), Dull Knife stated that he would never again “sharpen his knife” to fight Americans, thus earning his nickname. Although many of the young men in his tribe participated in the Battle of Little Bighorn, Dull Knife retreated with some followers into the Bighorn Mountains. In the aftermath of Lt. Colonel George Armstrong Custer’s defeat, the U.S. military pursued the Lakotas and Cheyennes. On the morning of November 25, 1876, a large military force attacked Dull Knife’s village, killing twenty-five Indians and slaughtering over five hundred horses. The survivors suffered through the winter before surrendering at Fort Robinson in April 1877.

Shortly after surrendering, the Northern Cheyennes were sent to Indian Territory to live with their Southern Cheyenne cousins. In their new home, however, Dull Knife’s people were plagued by starvation, disease, and loneliness. Consequently, a year later, Dull Knife and 350 Northern Cheyennes left the reservation and headed toward their Montana homeland. With the military in close pursuit, they made their way through Kansas and into Nebraska before dividing their numbers. Dull Knife, who remained with the weak and tired members of the group, was captured on October 23, 1878, and held at Fort Robinson.

When Dull Knife and the 128 other Cheyenne prisoners refused to be returned to Indian Territory, the military cut off their food, water, and fuel. On January 9, 1879, Dull Knife and his followers attempted escape. Sixty-four Cheyennes were killed. Dull Knife, however, eluded capture, and found refuge at Pine Ridge Agency. Dull Knife was eventually allowed to return to his homeland, where he died in 1883.

See also *Custer, George Armstrong; Fort Laramie (1868), Treaty of; Indian Territory; Little Bighorn (1876), Battle of; Red Cloud.*

Mark R. Ellis

BIBLIOGRAPHY

Hoig, Stan. *Peace Chiefs of the Cheyennes*. Norman: University of Oklahoma Press, 1980.

Monnett, John H. *Tell Them We Are Going Home: The Odyssey of the Northern Cheyennes*. Norman: University of Oklahoma Press, 2004.
Starita, Joe. *The Dull Knives of Pine Ridge: A Lakota Odyssey*. Lincoln: University of Nebraska Press, 1995.

Duncan, DeWitt Clinton

Cherokee attorney and teacher DeWitt Clinton Duncan (1829–1909) was the son of John Duncan and Elizabeth Abercrombie Duncan. The family removed with the rest of the tribe in the late 1830s to the West, where Duncan studied in Cherokee public schools. In 1857 he entered Dartmouth College, graduating Phi Beta Kappa in 1861. Due to the onset of the Civil War (1861–1865), he did not return to his people, but taught in New Hampshire, Wisconsin, and Illinois before settling in Charles City, Iowa, where he practiced law, taught school, and served as mayor. Upon his return to the Cherokee Nation in 1880, Duncan served as its legal counsel, as a delegate to Washington, and as principal of the Cherokee Male Seminary.

Duncan was a prosecutor in the federal case against David L. Payne, leader of a group of illegal settlers on Cherokee land. He devised a system of shorthand for the Cherokee language used by reporters in the Cherokee courts and also composed poetry. He is best known, however, as a political writer during a turbulent time in Indian history. Publishing extensively in the *Cherokee Advocate* and other Indian Territory newspapers, Duncan argued against allotment of tribal lands and the dissolution of tribal governments. He advocated treaty rights and national sovereignty for tribes. His work took several forms, including legal briefs, satirical pieces, and correspondence, much of it emanating from Washington, D.C., where he often wrote eyewitness reports from congressional hearing rooms.

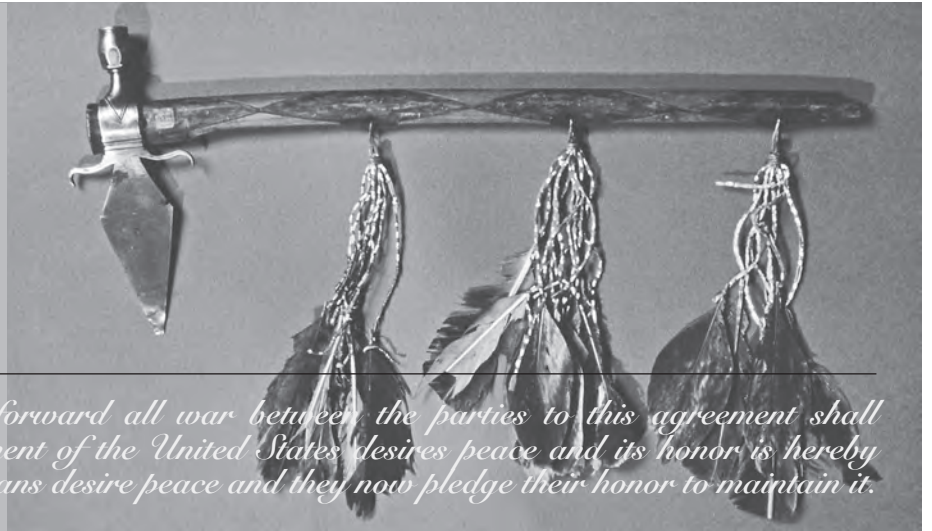
See also *Allotment in Severalty; Cherokee Advocate; Indian Territory; Sovereignty.*

James W. Parins

BIBLIOGRAPHY

Garrett, Kathleen. “Dartmouth Alumni in the Indian Territory.” *Chronicles of Oklahoma*, vol. 32 (Summer 1953): 123–141.

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Article 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they now pledge their honor to maintain it.

Eagle Protection Act (1940)

Congress passed the 1940 Eagle Protection Act to stop the rapid decline of bald eagle populations due to hunting, habitat encroachment, and the use of pesticides such as DDT. The act prohibits any form of hunting, possession, or sale of a bald eagle and provides civil and criminal sanctions for violations. The act protects both dead and live birds, bird parts, nests, and eggs.

In 1962 Congress amended the act to also protect the golden eagle and to establish the American Indian Religious Freedom Act exception. This exception recognizes traditional religious connections American Indians have with eagles. It also created the U.S. Fish and Wildlife National Eagle Repository, which collects and distributes eagles and their parts. The repository operates a permitting system whereby American Indians may obtain eagles and eagle feathers for religious purposes.

The religious exception is a controversial provision that has been the focus of many court cases. American Indians assert the act and the permitting system limit religious practice; it takes years, they say, to receive an eagle and then the bird is often not in suitable condition.

United States of America v. Winslow Friday, decided by the District Court of Wyoming in October 2006, was hailed as a victory by American Indians. The court dismissed charges against an Arapaho man who killed an eagle for a religious ceremony without a permit. The judge said it was clear the government had no intention of accommodating the religious beliefs of American Indians except on its own terms. The decision was under appeal as of June 2008.

See also *American Indian Religious Freedom Act of 1978.*

Rusty Creed Brown

BIBLIOGRAPHY

Act to Provide Protection for the Golden Eagle, Public Law 87-884, 87th Cong., 2d sess. (October 24, 1962).
United States of America v. Winslow Friday, No. 05-CR-260-D, 2006 WL 3592952, October 13, 2006.

Eastman, Charles

Charles Eastman (1858–1939), a Native American author and activist, was the son of Dakota warrior Many Lightnings and a woman of mixed ancestry. Following the 1862 United States–Dakota War, Many Lightnings was arrested and sentenced to hang. Eastman and other relatives fled from their Minnesota reservation to Manitoba, Canada. There, Eastman was isolated from further contact with whites. In 1875 his father (whose death sentence President Abraham Lincoln commuted to three years imprisonment) found Eastman and took him to live at the homesteading community of Flandreau, South Dakota. Many Lightnings then put his son on the path of assimilation.

During the next several years, Eastman attended school, including Dartmouth College and Boston University, where he earned a medical degree. Along the way, he gained influential mentors such as Alfred Riggs, the founder of the Santee Normal School, and Frank Wood, who was active in the Lake Mohonk Conference of Friends of the Indian and the Indian Rights Association. Through these relationships, Eastman began his lifelong involvement with Indian policy.

Eastman actively supported the 1887 General Allotment Act and in 1890 was appointed by the Bureau of Indian

Affairs (BIA) to be agency physician at the Pine Ridge reservation in South Dakota. There he met his wife and future literary collaborator, Elaine Goodale, and witnessed the aftermath of the Wounded Knee Massacre.

From 1890 until 1925, Eastman was a prolific writer, lecturer, and activist. He worked at various times as a lobbyist for the restoration of Santee treaty rights; as an “outing” agent for the Carlisle Indian School (responsible for placing students with potential employers or host families for further training); as an agency physician at Crow Creek, South Dakota; and as a renaming clerk for the Interior Department (assigning surnames to Sioux to facilitate allotment), among others. Eastman was also active in the Society for American Indians and served on the 1923 Committee of One Hundred, whose work laid the foundation for the 1928 *Meriam Report*.

Fundamentally in agreement with the need for Indian people to integrate into American society, Eastman nevertheless balanced his work between supporting assimilation and celebrating traditional Indian life. In his autobiographical writings, *Indian Boyhood* (1902) and *From the Deep Woods to Civilization* (1916), Eastman depicted Indian culture and identity in a way that essentially supported the allotment policy. However, he gradually became disillusioned with BIA corruption, the inability of the “friends of the Indian” to live up to their benevolent speeches, and the failure of allotment to achieve its desired ends. Increasingly, as in his 1911 work *The Soul of the Indian*, Eastman began to articulate a pan-Indian consciousness that stressed the need to sustain the spiritual values of Indian peoples, who he understood as sharing universal cultural traditions that transcended any tribal differences. In this respect, he was at the forefront of the movement to reinvigorate traditional Indian culture that achieved some success in the late 1920s and 1930s with Commissioner of Indian Affairs John Collier’s “Indian New Deal.”

Eastman’s attempts to popularize his positive vision of Indian identity were reflected in his endorsement of the “outdoor movement” of the Young Men’s Christian Association (YMCA) and Boy Scouts of America; in publications such as *Indian Scout Talks* (1914), *Old Indian Days* (1915), and *Wigwam Evenings* (1911); and in the New Hampshire camp he ran with his wife until their divorce in 1921. Retiring from public life in 1925, Eastman lived in a cabin near Detroit until his death from pneumonia in 1939. He remains a compelling figure because his career and writings underscore the tensions between assimilationist pres-

ures and the beginnings of a resurgent Indian “nationalism” during the early twentieth century.

See also *Assimilation and Acculturation*; *Carlisle Indian School*; *General Allotment Act (Dawes Act) of 1887*; *Indian New Deal*; *Lake Mohonk Conferences*; *Meriam Report*; *Society of American Indians*.

David J. Carlson

BIBLIOGRAPHY

- Carlson, David J. *Sovereign Selves: American Indian Autobiography and the Law*. Chicago: University of Illinois Press, 2006.
- Eastman, Charles. *From Deep Woods to Civilization*. Lincoln: University of Nebraska Press, 1977.
- . *Indian Boyhood*. New York: Dover Publications, 1971.
- . *The Soul of Indian: An Interpretation*. Lincoln: University of Nebraska Press, 1980.
- Miller, David Reed. “Charles Alexander Eastman, Santee Sioux, 1858–1939.” In *American Indian Intellectuals of the Nineteenth and Early Twentieth Centuries*, edited by Margot Liberty, 70–85. Norman: University of Oklahoma Press, 2002.
- Wilson, Raymond. *Ohiyesa: Charles Eastman, Santee Sioux*. Chicago: University of Illinois Press, 1983.

Echohawk, John

John Echohawk (1945–), a member of the Pawnee Nation of Oklahoma, is a leading force in Indian law and policy. One of the first Indians to attend law school under the Indian Law Scholarship Program funded by the Office of Economic Opportunity, Echohawk founded the American Indian Law Students Association, and in 1967 he became the first American Indian to graduate from the University of New Mexico School of Law.

Following law school, Echohawk joined California Indian Legal Services, where he quickly learned the magnitude of the work to be done on behalf of American Indians. Utilizing financial support from the Ford Foundation, Echohawk and other attorneys established the Native American Rights Fund (NARF) in 1970, adopting a policy of using litigation to defend and enhance civil rights.

As the executive director of NARF since 1977, Echohawk has led the organization’s successful advocacy for Indian rights in court and in Congress. NARF has fought for tribal sovereignty, the establishment of historical treaty rights in land and water, and the passage of the Native American Graves Protection and Repatriation Act and amendments to the Voting Rights Act. In 1996 Echohawk spearheaded a large class action lawsuit on behalf of more than 300,000 American Indians, challenging the federal government’s misappropriation of millions of

dollars of Indian trust funds (now commonly known as the *Cobell* litigation).

Echohawk's single-minded devotion to protecting the rights of American Indian tribes and improving the lives of Indians has garnered him a place in the *National Law Journal's* "100 Most Powerful Attorneys" since 1988.

See also *Cobell Litigation*; *Native American Graves Protection and Repatriation Act (1990)*; *Native American Rights Fund*.

Patrice H. Kunesch

BIBLIOGRAPHY

"Raising the Bar, Pioneers in the Legal Profession." *American Bar Association*, December 11, 2002, www.abanet.org/publiced/rbechohawk.html.

Targ, Nicholas. "Human Rights Hero: John Echohawk," *American Bar Association Spring 2006 Human Rights Magazine*, www.abanet.org/irr/hr/spring06/echohawk.html.

Echo-Hawk, Walter R.

Walter R. Echo-Hawk (1948–) is a Pawnee Indian who has fought to protect the rights of Native Americans. Echo-Hawk was born into the Kitkahahki, or warrior class, of the Pawnee on their reservation in Oklahoma. After completing a political science degree at Oklahoma State University, he enrolled in the Indian law program at the University of New Mexico School of Law. After graduating in 1973, Echo-Hawk joined his cousin, John Echohawk, at the Native American Rights Fund (NARF).

Echo-Hawk's early legal work involved defending the right of American Indian prisoners to wear their hair long, in the customary manner, and to participate in other traditional practices, such as sweat lodge ceremonies and the keeping of sacred objects. These efforts led first to the successful passage of the American Indian Religious Freedom Act of 1978, which formally protected traditional religious practices, and to later amendments in 1994 that legalized the religious use of peyote by members of the Native American Church.

Echo-Hawk also became involved with securing the return of Indian remains, burial offerings, and sacred objects to Native groups. After negotiating several agreements with state archeologists and museum directors for the return of such remains and artifacts, Echo-Hawk led a national effort to enact the Native American Graves Protection and Repatriation Act of 1990. This act established national standards for the return of Native American remains from federal agencies and federally funded institutions.

His work involving tribal water rights in the Northwest earned Echo-Hawk the Civil Liberties Award from the American Civil Liberties Union of Oregon in 1991. In 1994 he published an award-winning book, *Battlefields and Burial Grounds*, which includes examples of his own art.

See also *American Indian Religious Freedom Act (1978)*; *Native American Graves Protection and Repatriation Act (1990)*; *Native American Rights Fund*.

Patrice H. Kunesch

BIBLIOGRAPHY

Echo-Hawk, Roger C., and Walter R. Echo-Hawk. *Battlefields and Burial Grounds: The Indian Struggle to Protect Ancestral Graves in the United States*. Minneapolis: Lerner Publications, 1994.

Edmunds, David R., ed. *The New Warriors: Native American Leaders since 1900*. Lincoln: University of Nebraska Press, 2001.

Edmondson, Ed

A member of a powerful political family, Ed Edmondson (1919–1990) was a U.S. congressman (a Democrat) from Oklahoma from 1953 to 1973. Born and raised in Muskogee, Edmondson served on the Transportation Committee and the Interior and Insular Affairs Committee of the House of Representatives. During his time in office, Edmondson's congressional district, which encompassed the heart of the Cherokee and Creek nations, had one of the largest populations of Native Americans in the United States.

As a member of the House Interior Committee, Edmondson was a consistent voice for tribal sovereignty and empowerment, and his time in Congress saw his involvement in many significant developments for Indian Country. He was particularly involved in resisting the government's termination policies of the 1950s and 1960s. He led the fight in Congress to oppose removing restrictions on the alienability of Indian lands; many times, removal of these restrictions was set as a precondition to permitting Indian owners to receive government benefits. As a result of the removal of these restrictions, Indian ownership of land in Edmondson's district had fallen sharply between 1889 and 1955.

As a congressman, Edmondson was also instrumental in establishing the Five Civilized Tribes Museum in Muskogee. Edmondson ran for the United States Senate in 1972 and 1974, narrowly losing each time. He also lost a bid in 1978, when he ran without his party's nomination. After retiring from politics, Edmondson helped initiate the Sovereignty Symposium, an important legal gathering of scholars and practitioners of Indian law.

See also *Sovereignty; Termination and Restoration.*

Brad R. Carson

BIBLIOGRAPHY

Cobb, Daniel M. *Beyond Red Power: American Indian Politics and Activism since 1900*. Santa Fe, N.M.: School for Advanced Research Press, 2007.

Education: Boarding Schools

Indian boarding schools have been portrayed as a tragic symbol of racism, cultural genocide, and forced assimilation, yet some Native people remember the schools as safe havens where they made lifelong friendships and gained valuable skills. These institutions were designed in the late 1800s to “civilize” Native Americans through training in industrial and agricultural skills. Historians have traced the records of these schools through government documents, but of equal or greater value are narratives giving voice to boarding school alumni. In the mid-to-late twentieth century there were scores of Indian boarding schools operated by the Bureau of Indian Affairs (BIA) in the nation, but by the early twenty-first century, only a handful remained.

Historical Background

The common school movement of the 1840s promoted the idea of elementary—and eventually compulsory—public education for all children. As interdenominational Protestant groups founded charitable schools within urban areas, they laid the foundation for a comparable effort on Indian reservations. After the public school system was instituted, funding derived from state taxes and the local community controlled school policies, staffing, and curriculum. That control also allowed states to legislate exclusionary practices and, along with other races, Indians could be prevented from entering public school. Although a few Native students attended public schools in other areas, the federal government was responsible for schooling Indian children.

In 1840 Commissioner of Indian Affairs T. Hartley Crawford portrayed the coeducational Methodist Shawnee mission in eastern Kansas as an ideal model for Indian schools. The need for a common language placed English as the most favored bridge between students and their teachers. By 1842 there were 2,132 students enrolled in forty-five schools in Indian Territory. By 1848 there were sixteen manual labor schools with 809 students and eighty-seven boarding schools with 2,873 enrolled.

The reservation period in American history signified a change in federal Indian policy. With the expansion of the United States to the Pacific Ocean, tribes could no longer simply be isolated from the white Americans. Commissioner of Indian Affairs Luke Lea reported to the secretary of the interior in 1850 and advised that the Indians be kept on the reservations and compelled to farm. Compulsory education and assimilation policies were usually included in land cession and removal treaties.

After the Civil War (1861–1865), most American politicians and citizens held one of two views: either Indians were on the way to extinction or should be saved through education and assimilation. Prompted by the tragedy at Sand Creek and increasing hostilities between whites and Natives, President Ulysses S. Grant appointed the Peace Commission in 1867. The commission’s report in 1868 included a new formula for Indian governance and educational policies that would extend into the twentieth century. The commissioners advised the government to continue using reservations for protection and isolation of all Indian tribes. They also suggested that the government provide schools that emphasized the exclusive and compulsory use of English, that weaned Indian students from their languages and cultures, and that implemented regulations to change student behavior and appearance.

Edward P. Smith, who had worked for the American Missionary Association and the Bureau of Freedmen Refugees and Abandoned Lands, was appointed as the commissioner of Indian affairs in March of 1873. In November Smith submitted his first annual report, suggesting that day schools served only those Indians who were already well on their way to assimilation. Under the heading of “Manual Labor Schools,” he suggested that boarding schools, where only English was spoken, would be much more successful. Despite objections from those who believed in a military solution to the “Indian problem,” within a decade, the Christian humanist philosophy was transformed into legislation that established a network of Indian boarding schools. In 1875 the Board of Indian Commissioners proposed a universal common school system for Indians, just as the states provided public schools for their children.

In 1877 Indian commissioner Ezra Hayt recommended that all Indian children between six and fourteen years old be compelled to attend school—preferably boarding schools where there would be minimal influence from the families and only English would be spoken. Hayt also advised the establishment of industrial schools for students over fourteen



Off-reservation boarding schools, such as Carlisle Indian School, replaced on-reservation day schools in the 1880s. The boarding schools deemphasized Indian traditions and emphasized agricultural and domestic skills to encourage assimilation into white society.

and recommended funding for sending some to eastern colleges to learn to be interpreters.

Despite these numerous plans and recommendations, Commissioner Hiram Price revealed in 1884 that the government had not fulfilled its promises to provide schools for Indians, and over the five previous years had accrued a debt to the western tribes of more than \$2.5 million dollars.

As a federal Indian education plans were slowly being implemented, boarding schools gradually replaced day schools on the reservations, and curricula emphasizing manual labor, farming, and industrial skills was popular for a few decades. Initially these institutions were managed and at least partially funded by the churches and missionary organizations as contract schools. But as the secular structure expanded, government funding for religious education disappeared. Federally funded day schools within the villages and on the reservations provided a brief education and served as “feeders” to reservation boarding schools. Children from urban areas and reservations were sent to off-reservation boarding schools (ORBS). Other early students at the ORBS were Alaska Natives, who were under the jurisdiction of the Bureau of Education, a separate division of the Interior Department.

Off-Reservation Boarding Schools

In 1877 there were 48 governmentally funded boarding schools and 102 day schools on reservations, figures that

increased to 60 and 109, respectively, by 1880. In 1885 there were ninety-eight boarding schools but only eighty-six day schools. By 1880 three experimental off-reservation Indian educational programs were in place: the Hampton Normal and Agricultural School in Virginia (founded as a school for freed slaves), the Carlisle Indian Industrial School in Pennsylvania (sited at an abandoned army barracks), and the Forest Grove Indian Industrial and Training School in Oregon (at Pacific University). Those institutions together marked the beginning of the off-reservation boarding school movement.

The Forest Grove School was relocated to Salem, Oregon, in 1884, and four more ORBS were opened by the U.S. government: the Haskell Institute in Lawrence, Kansas (later the Haskell Indian Nations University); the Chilocco Indian Agricultural School in Oklahoma; the U.S. Indian Industrial School in Genoa, Nebraska; and the Albuquerque Indian School in New Mexico. By the end of the century, 153 on- and off-reservation boarding schools had a population of 17,708, one-third of which were off-reservation. In 1900 twenty-five boarding schools were located off reservations, and in the late 1920s almost half of all Indian students were enrolled at those schools.

As the template was crafted in Washington, D.C., there were few differences between boarding schools. Superintendents, teachers, and other employees were often trans-

ferred from one BIA boarding school to another regardless of their level of knowledge about the tribes whose children they would be teaching. From the government's perspective, an Indian was an Indian. A massive institution resulted, housed in the BIA, with reservation and off-reservation schools as satellites throughout the country. This assured that Indians, despite their geographical location, language, culture, or religious traditions, were taught an identical curriculum: individualism, competency in the English language and basic academic skills, Christian spiritual values, and Euro-American agrarian skills. When Congress passed the General Allotment Act (Dawes Act) of 1887, with its plan for the breaking up and allotment of all reservation lands to individual Indians, students were encouraged to reject tribal communities, to think of themselves as individuals, and to focus on a future in which they would own their land in fee simple, become citizens, and raise a family.

The organization of the schools was militaristic, with a regimen that included marching, discipline, and corporal punishment. Although the original plan for the schools was to train teenaged Indians to work, very young children were enrolled to increase the per-capita-based government funding. The curriculum was at a grammar school level and included some academic classes, but in the early years schedules revolved around an industrial/agricultural program, preparing boys to be farmers. Their labor was an integral part of the construction of school buildings and maintenance of the grounds. Money earned by the students was held by the school superintendent and used to support the school. In the case of one Chemawa school it was even used to purchase land that was then deeded to the government. Girls were taught the "domestic arts," cooking, sewing, laundry, and housekeeping. The courses expanded over time to include more academic subjects and vocational training for outside work such as nursing, tailoring, engineering, and printing. In some cases, "outing" programs placed students at local homes and farms.

Because of the large geographical areas that some reservations encompassed and the limitations on family contact, students at boarding schools on the reservations were often as isolated from their communities as those at Carlisle, Chemawa, or other ORBS. Children from Alaska might be sent to ORBS in Oregon, Kansas, or Pennsylvania, and years could pass before they saw their loved ones again. Some stayed as employees at the school. Other students died at the schools or became ill and died shortly after they were sent home. If and when they did return home, the acculturated Indians faced a bleak future. Few jobs that could utilize their

newly acquired skills were available in their reservations or villages, and they were sometimes even shunned by family and friends.

Education Reforms

To the public, the intrinsic flaws of the boarding school system were unknown or overlooked, and Indian schools were seen as symbols of American philanthropy. But by the 1920s, a new spirit of social reform stimulated questions about the fairness and effectiveness of Indian education. The crusade of John Collier, the commissioner of Indian affairs from 1933 to 1945, and the American Indian Defense Association prompted investigations, the *Meriam Report*, and ultimately the Indian Reorganization Act of 1934 (IRA). Congress began to recognize the value of Indian history and culture had value and allowed those subjects to be taught in the schools. During this same period, Alaska Native education was brought under the jurisdiction of the Bureau of Indian Affairs (formerly the Office of Indian Affairs). The State of Alaska took over management of Native schools in the 1960s.

The Indian Self-Determination and Education Assistance Act of 1975 subsequently authorized tribes to contract to operate their own schools and to decide how their children would be educated. As support for manual labor schools diminished and emphasis on accreditation and a high school diploma grew, federal Indian education philosophies began to parallel those of the public schools. Both on- and off-reservation boarding schools adjusted their curricula to meet national and state district standards. Two important legislative actions helped to shift control of the schools from federal to tribal supervision: the Education Amendments Act in 1978 and the Tribally Controlled Schools Act of 1988, which provided for the formation of tribal school boards and for tribes to hire their own teachers and staff. In 2007 the Bureau of Indian Education funded fifty-two boarding schools, of which twenty-four were tribally operated.

One lasting consequence of the integration of individuals from different tribes in boarding schools was the pan-Indian movement, and the unification of groups who now strive together for tribal sovereignty, self-determination, cultural restoration, and the improvement of Indian education at all levels. An example of this cooperation is the National Indian Education Association (NIEA), founded in 1969, which represents the interests of all American Indians, Alaska Natives, and Native Hawaiians.

From mission schools, reservation day and boarding schools, and off-reservation boarding schools to tribally

operated schools on the reservations, special programs for Indian children attending public schools, and tribal colleges, the evolution of Indian education has been a reflection of changing social attitudes and the persistence of Native Americans.

See also *Assimilation and Acculturation; Bureau of Indian Affairs; Carlisle Indian School; Chemawa Indian School; Civilization Program; Education: Higher Education; Education: Reservation Schools; Hampton Normal and Agricultural Institute; Haskell Indian Nations University; Indian Self-Determination and Education Assistance Act (1975); Missions and Missionaries.*

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BIBLIOGRAPHY

- Adams, David Wallace. *Education for Extinction: American Indians and the Boarding School Experience, 1875–1928*. Lawrence: University of Kansas Press, 1995.
- Chalcraft, Edwin L. *Assimilation's Agent: My Life as a Superintendent in the Indian Boarding School System*. Lincoln: University of Nebraska Press, 2004.
- Child, Brenda J. *Boarding School Seasons: American Indian Families, 1900–1940*. Lincoln: University of Nebraska Press, 2000.
- Collins, Cary C. “The Broken Crucible of Assimilation: Forest Grove Indian School and the Origins of Off-Reservation Boarding School Education in the West.” *Oregon Historical Quarterly*, vol. 101, no. 4 (2000): 466–507.
- U.S. Congress. Senate. Committee on Labor and Public Welfare, Special Subcommittee on Indian Education. *Indian Education: A National Tragedy—A National Challenge*. 91st Cong., 1st sess. 1969, Senate Report 91-501.
- Lomawaima, K. Tsianina. *The Story of Chillico Indian School: They Called It Prairie Light*. Lincoln: University of Nebraska Press, 1994.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Reddick, SuAnn M. “The Evolution of Chemawa Indian School, From Red River to Salem, 1825–1885.” *Oregon Historical Quarterly*, vol. 101 no. 4 (2000): 444–465.
- Reyhner, Jon, and Jeanne Eder. *American Indian Education: A History*. Norman: University of Oklahoma Press, 2004.
- Standing Bear, Luther (Ota Kte). *Land of the Spotted Eagle*. Lincoln: University of Nebraska Press, 1978.
- Szasz, Margaret Connell. *Education and the American Indian: The Road to Self-Determination Since 1928*. 3rd ed. Albuquerque: University of New Mexico Press, 1999.
- Walke, Roger. “Federal Indian Education Programs: Background and Issues.” *Congressional Research Reports for the People*, October 9, 2007. <http://openers.com/document/RL34205>.

Education: Higher Education

Higher education as offered by colleges, universities, and other learning institutions was unknown to American Indians before colonization. Instead, apprenticeship with knowledge-

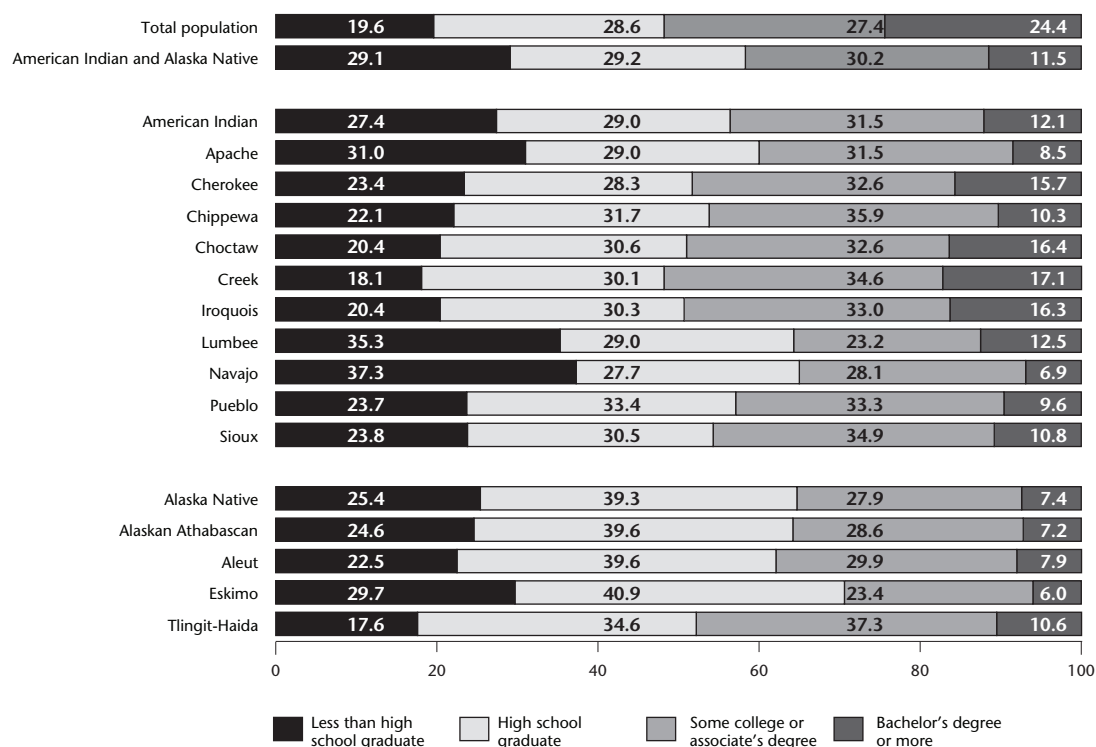
able elders was the route to advanced learning. For European colonists the major goal of higher education was usually to train Christian ministers, as was the case with Harvard University, founded in 1636. Harvard's 1650 charter called for the “education of English and Indian youth,” and in 1653 the Society for the Propagation of the Gospel in New England paid for the construction of a small Indian College building, which served a handful of Indian students before its demolition in 1698. Funds raised in Great Britain were used to print 1,500 copies of an Indian Bible in a dialect of the Algonquian language at the Indian College. The colonists sought to prepare Indians to be missionary teachers so they could go home and convert the other members of their tribe.

In the eighteenth century, Eleazar Wheelock found a promising Indian student named Samson Occom (Mohegan), who learned Greek and Latin and became a teacher and missionary on Long Island, New York. In 1766 Occom went to England to preach and raise money for educating Indians, and Wheelock used the money to found Dartmouth College. Its 1769 charter established it

For the education and instruction of youth of the Indian tribes in this land in reading, writing, and all parts of learning which shall appear necessary and expedient for civilizing and Christianizing children of pagans, as well as in all liberal arts and sciences, and also of English youth and any others.

However, Dartmouth, like other early colleges and universities, educated few Indians until the Civil Rights movement forced it to remember its original purposes and establish a Native American studies program in 1972. By the early twenty-first century, Dartmouth had graduated over five hundred American Indians. In Virginia, the College of William and Mary was founded in 1693, and its first Indian students attended in 1700. In 1723 a house for Indian students was constructed and remained open until the American Revolutionary War (1775–1783).

Overall, there were only small-scale scattered efforts to provide higher education for Indians throughout the nineteenth century and into the twentieth. One of the earliest higher education institutions exclusively for Indian students was the Croatan Normal (teacher training) School that opened in North Carolina in 1887 with fifteen students from the Lumbee tribe. The state's general assembly recognized the Lumbee Indians in 1885 and authorized them to have their own schools because they wanted to avoid being educated in segregated schools with African Americans. Its

FIGURE 1: Educational Attainment in Population 25 Years and Older, 2000

Source: U.S. Census Bureau, Census 2000 special tabulation.

Note: Data represent percent distribution of population 25 and older. Data based on sample. For information on confidentiality protection, sampling error, nonsampling error, and definitions, see www.census.gov/prod/cen2000/doc/sf4.pdf. Some percentages do not sum to 100.0 due to rounding.

American Indians rank lower in educational attainment compared with the total U.S. population. According to the 2000 Census, about 12 percent of American Indian and Alaska Native populations over 25 years old had earned a bachelor's degree or more.

early curriculum was nonstandard and nontraditional and considered to be below an eighth grade level. Students originally needed to be at least fifteen years old to attend. In 1911 the school was renamed the Indian Normal School of Robeson County. In 1913 it became the Cherokee Indian Normal School, which it was called until 1941 when it became Pembroke State College for Indians. In 1953 it was opened to non-Indians due to the court-ordered end to school segregation. As it graduated more and more Indian students, pressure was put on the state to open its graduate and professional schools to Indians. In reaction to the desegregation of the university and the Indian militancy of the early 1970s, a Native American Studies department was added in 1972 and authorized to offer a major in 1984, one of only two such majors then offered east of the Mississippi

River. Between 1981 and 1992, about 24 percent of students at Pembroke were American Indians.

Bacone's Indian University

Three years after the founding of the Croatan Normal School, an instructor at the Cherokee National Male Seminary, Almon C. Bacon, supported by the American Baptist Home Mission Society, helped establish the Indian University in Tahlequah, Oklahoma. It began in 1880 with three students and was chartered a year later by the Muscogee-Creek Nation. John D. Rockefeller, the oil magnate and a friend of Bacon's wife, provided financial support. Its first catalog declared in 1881 that "Its primary object is to prepare native teachers and preachers for a more effective Christian work among the Indian tribes." Its first

bachelor's degree was awarded in 1883, and construction on Rockefeller Hall began in 1884 in Muscogee, Oklahoma. Only five students, all Cherokees, graduated between 1883 and 1888. In 1889–1890 there were fifteen students enrolled in a normal (teacher preparation) class and ten in a theological class. It was reported that sixty students had been prepared for teaching and thirty-three for the ministry. Most of the faculty in the early days spoke an Indian language. All students received daily religious instruction, and German, Spanish, French, and Latin were offered for a year each.

Indian University graduates entered various professions, including medicine, law, journalism, and business. Only ten students were in the college department during the 1904–1905 school year, and from 1911 to 1916 there were no college level students.

In 1910, after Bacone's death, the college was renamed for him. Fifteen different tribes were represented in the student body in 1919, 24 tribes in 1922, and 306 students from 40 tribes in 1933. In 1928 there were ten Indian faculty members and a curriculum emphasizing Native music and art. From 1943 to 1948, the Reverend Early Louis Riley, a Creek Indian and alumnus, served as president.

After World War II (1939–1945), Bacone focused on providing programs that other schools for Indians did not offer, and more non-Indian students enrolled. In the late 1950s, the school received regional accreditation, and in fall 2001 the enrollment of 436 students was 45 percent Indian, representing twenty-three tribes.

Despite the long history of Indians in higher education, only a tiny fraction of Indians actually attended the available schools. As the Indian Office improved its education system it began to think more about post-secondary education. The large off-reservation boarding schools in the late nineteenth century added teacher preparation and business departments. After Carlisle Indian Industrial School in Carlisle, Pennsylvania, closed in 1918, Haskell Institute in Lawrence, Kansas, took its place as the flagship federal off-reservation boarding school. It became Haskell Indian Junior College in 1970 and Haskell Indian Nations University in 1993. The focus of the school shifted in 1970, when it began offering only college-level classes and changed its name to the Haskell Indian Junior College.

In 1932 Secretary of the Interior Ray L. Wilbur announced that Indian students could get educational loans from federal and tribal funds, room and board at nearby Indian schools in return for part-time-work, their tuition

paid from federal funds, and scholarships. However, Indian students enrolling in mainstream colleges had a very high drop-out rate, and some colleges would not take them.

Tribal Colleges

The failure of mainstream colleges and universities to recruit and retain Indian students led to the exploration of special colleges for American Indians, similar to the historically African American colleges established after the Civil War (1861–1865). The Office of Economic Opportunity (OEO), established in 1964 as the “flagship” of President Lyndon Johnson's “War on Poverty,” was designed to work outside existing federal departments that many activists felt had failed to adequately help the poor. The OEO operated under the policy of “maximum feasible participation” by the poor. Across Indian Country OEO programs fostered leadership and career opportunities and funded graduate education for Indians. The OEO also established Indian adult education programs, which led directly to the establishment of tribal colleges.

In 1957 the Navajo Tribe started a scholarship fund financed by oil royalties. However, over 50 percent of Navajo students dropped out in their freshman year. This led Navajo leaders to explore starting their own college. In 1965 they were able to convince the OEO to do a feasibility study, which concluded that a tribally controlled community college should be established. The OEO provided funding in 1968, and the Navajo tribal council passed a resolution founding Navajo Community College (NCC). It started as an open admissions institution in January 1969, in the U.S. government's Bureau of Indian Affairs (BIA) high school in Many Farms, Arizona, with 309 students. In 1971 the Congress passed the Navajo Community College Act to regularize federal support. A permanent campus was opened in 1973 in Tsaile, Arizona, and branch campuses were established around the reservation. In 1978 the enrollment was 1,241 students.

The establishment of the NCC with federal support was part of the general policy shift from assimilating Indians into the general population to Indian self-determination that was articulated by President Richard Nixon in 1970. The NCC's second president, Ned Hatathli (Navajo) declared, “This is an Indian owned and an Indian operated institution, and we certainly don't want any people other than Indian to dictate to us what is good for us” (Margaret Connell Szasz, *Education and the American Indian: The Road to Self-Determination Since 1928*, 3rd ed., 1999). Some Indian activists and traditional-

ists rejected much of mainstream thinking on what should go into the NCC's curriculum. On the other hand, modernists, including long-time Navajo tribal chairman Peter MacDonald, wanted tribal colleges to be patterned more after non-Indian community colleges and prepare students directly for jobs or to leave the reservation to enter mainstream four-year colleges. The NCC was renamed Diné College in 1997.

Other tribal colleges were established soon after the founding of the NCC. In 1967 volunteers associated with the University of Colorado founded Ogalala Lakota College (OLC) on the Pine Ridge reservation in South Dakota. Its 1978 mission statement emphasized "the importance of maintaining the Lakota culture and fostering tribal self determination" while preparing students "to understand the ways of the larger society." To better serve the dispersed reservation communities, it had nine centers rather than one central campus.

Sinte Gleska College on the Rosebud Sioux reservation in South Dakota was started in 1971 with six centers. From the beginning it had a large non-Indian enrollment, sometimes representing over 50 percent of the student body. Another pioneer tribal college was D-Q (Deganeweda-Quezalquotl) University, founded with the help of the California Indian Education Association, which was started in 1971. It was located near Davis, California, in an abandoned army installation that was taken over peacefully by Indian activists. It was forced to close its doors in 2006 because of financial problems, but in 2008 students still struggled to keep it open, continuing to live on campus and engaging in civil disobedience in protest against the board of trustees. The university's students were mainly urban Indians, and the only Indian language it taught was Lakota.

The presidents of the first six tribal colleges banded together in 1972 to form the American Indian Higher Education Consortium (AIHEC) to promote expansion of Indian-controlled higher education. The AIHEC's 1973 mission statement identified four objectives: "maintain commonly held standards of quality in American Indian education; support the development of new tribally controlled colleges; promote and assist in the development of legislation to support American Indian higher education; and encourage greater participation by American Indians in the development of higher education policy." AIHEC leaders lobbied Congress for support between 1973 and 1975, visiting every congressional representative with a tribal college in their district, and these efforts continued into the mid-2000s. South

Dakota senator James Abourezk, who had grown up on the Rosebud reservation, provided key support for the passage of the Tribally Controlled Community College Assistance Act in 1978, despite the objections of the BIA and the U.S. Office of Education. However, as of the early twenty-first century, the total authorized funding under this act had never been appropriated.

In 1994 tribal colleges were awarded land-grant status, which made new sources of federal funding available to them. Accreditation through regional accreditation associations, especially the North Central Association of Colleges and Schools (NCA), opened up sources of federal funding for tribal college students and helped keep them independent of tribal politics.

Tribal colleges serve Indian students who would otherwise have little chance to attend college and offer a second chance to students who have gone to mainstream colleges and dropped out. They play an important role in improving the quality of life on reservations. In 1989 a two-year study by the Carnegie Foundation entitled *Tribal Colleges: Shaping the Future of Native America* concluded, "The growing network of tribally controlled colleges offers great hope to the Native American community and the nation as a whole." The long-serving president of Sinte Gleska College, Lionel Bordeaux, wrote, "These founders [of the tribal colleges] foresaw the need to preserve the Indian culture so cultural preservation is really the foundation of the tribal colleges" ("Higher Education from the Tribal College Perspective," in *Opening the Montana Pipeline: American Indian Higher Education in the Nineties*, edited by Deborah Wesit LaCounte and Patrick Weasel Head, 1991).

In the 1990s a few tribal colleges moved to become four-year institutions. Both Diné College in Arizona and Haskell Indian Nations University in Kansas developed teacher education programs.

American Indian and Native American Studies

Pressured by the beginning of the Civil Rights movement, mainstream colleges and universities also responded to the demands of Indian leaders for more higher education opportunities. In 1955, at the request of university administrators and American Indian representatives, regents of the University of South Dakota organized the Institute of American Indian Studies. The South Dakota state legislature recognized the institute in 1974. The institute collected oral histories, among them the 1974 book *An Indian Philosophy on Education*, which was a collection of essays by American

Indian professionals that described how American Indian children should be taught.

Many Indians moved to cities in the 1950s, drawn by promises of economic opportunities from the BIA relocation program, but they often found those promises to be empty. Some of these disappointed urban immigrants became community activists, as was the case in San Francisco with the Alcatraz Island takeover in 1969. Many of them were college students, some from emerging Native American Studies (NAS) programs at the University of California at Berkeley, the University of California at Los Angeles, and San Francisco State College. Within these programs courses were developed in Native American literature, American Indian legal-political studies, Native American arts, Native American religion and philosophy, Native American education, American Indian languages, and American Indian tribal and community development. Jack D. Forbes, who helped found the University of California at Davis's NAS program, wrote that the "thrust of Indian Studies is not primarily to study the Indian community but to develop practical programs for and by the Indian community" (*Handbook for the Development of Native American Studies*, 1971).

In 1996 there were 131,902 Indian students enrolled in nontribal colleges and 10,234 in tribal colleges. By 2008, most Indian students were enrolled in mainstream educational programs that did not reflect or build on their Indian heritage. However, the number of Native American Studies programs in the United States and Canada has soared to over one hundred since the late 1960s, with over twenty colleges offering graduate degrees and at least forty offering bachelor's degrees.

See also *Alcatraz Island, Seizure of (1969)*; *Education: Boarding Schools*; *Education: Mission Schools*; *Education: Public Schools*; *Education: Reservation Schools*; *Indian Education Act (1972)*; *Indian Self-Determination and Education Assistance Act (1975)*; *Missions and Missionaries*; *Tribally Controlled Community College Assistance Act of 1978*.

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BIBLIOGRAPHY

- American Indian Higher Education Consortium, Institute for Higher Education Policy, *Tribal Colleges: An Introduction*, 1999, www.aihec.org/documents/Research/intro.pdf.
- Bordeaux, Lionel. "Higher Education from the Tribal College Perspective." In *Opening the Montana Pipeline: American Indian Higher Education in the Nineties*, edited by Deborah Wesit LaCounte and Patrick Weasel Head, 11–18. Sacramento, Calif.: Tribal College Press, 1991.

- Boyer, Paul. *Native American Colleges: Progress and Prospects*. San Francisco: Josey-Bass, 1997.
- Carnegie Foundation. *Tribal Colleges: Shaping the Future of Native America*. Princeton, N.J.: The Carnegie Foundation for the Advancement of Teaching, 1989.
- Forbes, Jack D., and Carolyn Johnson, eds. *Handbook for the Development of Native American Studies*. Davis, Calif.: University of California, 1971.
- LaCounte, Deborah, and Patrick Weasel Head, eds. *Opening the Montana Pipeline: American Indian Higher Education in the Nineties*. Sacramento, Calif.: Tribal College Press, 1991.
- Mihesuah, Devon Abbott, and Angela Cavender Wilson, eds. *Indigenizing the Academy: Transforming Scholarship and Empowering Communities*. Lincoln: University of Nebraska Press, 2004.
- Morrison, Dane, ed. *American Indian Studies: An Interdisciplinary Approach to Contemporary Issues*. New York: Peter Lang, 1997.
- Nelson, Robert M. *A Guide to Native American Studies Programs in the United States and Canada*, 2007, <http://oncampus.richmond.edu/faculty/ASAIL/guide/guide.html>.
- Reyhner, Jon, and Jeanne Eder. *American Indian Education: A History*. Norman: University of Oklahoma Press, 2004.
- Stein, Wayne J. *Tribally Controlled Colleges: Making Good Medicine*. New York: Peter Lang, 1992.
- Szasz, Margaret Connell. *Education and the American Indian: The Road to Self-Determination Since 1928*. 3rd ed. Albuquerque: University of New Mexico Press, 1999.

Education: Mission Schools

As part of the attempt to "civilize" American Indians, missionaries of all denominations opened schools to educate Native people. The first mission schools in North America were founded in the mid-sixteenth century by the early Spanish explorers and were located within the Spanish missions. These missions also served as fortresses, supply stations, and religious institutions. The main goal of the first mission schools was to teach Catholic principles to American Indians, which necessitated the learning of some reading, writing, and language skills as well. Unfortunately, these early missionaries, and those who followed, frequently gave little thought to how their schools might harm the culture and structure of indigenous communities.

As colonization of the North American continent continued, so too did the creation of missions. With the French Catholics came more mission work, particularly in the upper Northeast, the adjacent regions in Canada, and later in the South. In New England, Puritan colonists established "praying towns" where Native American Christian converts resided and received instruction on English culture and trades.

The Second Great Awakening, a movement from the 1790s to the 1840s that sought to revive interest in religion

in the United States, stirred the missionary spirit among many different religious groups. Many religions worked to form and support mission schools and mission societies with the purpose of teaching Native American people the religious beliefs of their specific group. Large-scale coordinated efforts were generally difficult during this period because of lack of money and the distance between the mission societies and the Native populations. However, after the War of 1812 (1812–1814), a growing sense of nationalism, along with slow improvements in transportation, communication, and organization, helped missionary operations become more organized. The mission societies were able to form groups who could collect funds from around the country to support mission schools.

The American Board of Commissioners for Foreign Missions was tasked with placing agents, ministers, and teachers in the mission field. The board founded its first Indian mission school (for the Cherokees) in Brainerd, Tennessee, in 1816, and built schools away from Indian territory in Cornwall, Connecticut, in 1817, and Kentucky (the Choctaw Academy) in 1825. Cyrus Kingsbury, a Presbyterian missionary, founded mission schools for the Choctaws in Eliot, Mississippi, in 1818 and Mayhew, Mississippi, in 1821.

Because the mission schools' primary goal was to teach Native people about religious devotion, basic educational skills, and American work habits, the U.S. government encouraged the schools and supported them in the years between the War of 1812 and the Civil War (1861–1865). In 1819 Congress appropriated \$10,000 per year for the purpose of teaching Native people agriculture and instruction in reading, writing, and math. Much of this money, which continued to be appropriated until 1873, was allocated to Christian denominations. In 1824 the House Committee on Indian Affairs reported that the funds had been used to establish eighteen new schools.

After the Civil War, President Ulysses S. Grant's "Peace Policy" provided new government subsidies for American Indian education. The policy was to pay the mission schools per pupil for educating Indian children. The idea was that it was less expensive to educate and "civilize" Natives than it was to continue fighting costly "Indian Wars." As the government subsidies became standardized, the Catholic Church, using funds from wealthy benefactors and Sunday collections from regular parishioners, quickly organized the Bureau of Catholic Indian Missions and built mission schools around the United States to capitalize on the gov-

ernment's offerings. This rapid expansion of Catholic schools concerned the Protestant citizenry to the point of protest, and the federal government responded to the complaints with changes in how the contracts or subsidies were paid to mission schools. As a result, the contract mission schools began being replaced by federal Indian schools, which were officially nondenominational but clearly favored a Protestant model and included religious practice as part of the curriculum.

Colonel Richard Henry Pratt opened the Carlisle Indian School in Pennsylvania in 1879. Pratt pushed legislators and influential citizens to accept his belief that the military model of Indian education was the most effective. Consequently, many of the mission schools moved to the Carlisle or Pratt Model during the late nineteenth and early twentieth centuries. This model is often summarized with the infamous quote, "Kill the Indian, save the man." Pratt's school used military discipline and abusive tactics to subdue the students while enforcing a policy of strict cultural assimilation. Students learned trades and skills most useful in eastern urban environments, despite the fact that most of them returned to homes that were not necessarily in the east and certainly not urban. The Carlisle School enrolled Natives from many tribes across the country. Students from different communities often had to learn English as a way to communicate with one another. There were many instances of resistance by Natives to the harsh teaching methods and several student deaths.

In the twentieth century, the mission schools provided soldiers for both world wars, since the students already had military backgrounds from their educational experiences. School attendance began to build a pan-Indian cultural identity, as students began to identify with other Indians and the issues they had in common despite being from different tribal backgrounds.

Some of the mission schools, such as St. Michael's Indian School in the Diné (Navajo) Nation and Red Cloud in present-day South Dakota, still exist but function very differently than their predecessors. Those schools that survived learned to at first accept, and then later to celebrate and incorporate, local American Indian beliefs and customs into their principles and curricula. The most successful schools meld traditional Native knowledge with dominant cultural educational skills to create mission schools that truly serve American Indian communities on terms dictated by those communities.

See also *Carlisle Indian School; Civilization Program; Haskell Indian Nations University; Grant, Ulysses S.; Kingsbury, Cyrus B.; Pratt, Richard Henry.*

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BIBLIOGRAPHY

- Berkhofer, Robert, Jr. *Salvation and the Savage: An Analysis of Protestant Missions and American Indian Response, 1787–1862*. Lexington: University of Kentucky Press, 1965.
- Fear-Segal, Jacqueline. *White Man's Club: Schools, Race, and the Struggle for Indian Acculturation*. Lincoln: University of Nebraska Press, 2007.
- Prucha, Francis Paul. *The Churches and the Indian Schools: 1888–1912*. Lincoln: University of Nebraska Press, 1979.
- Rahill, Peter J. *The Catholic Indian Missions and Grant's Peace Policy, 1870–1884*. Washington, D.C.: Catholic University of America Press, 1953.

Education: Public Schools

The United States Constitution does not mention education, and historically public schools have been a local responsibility overseen by locally elected school boards and often supervised by state departments of education. The U.S. Department of the Interior's schools for Indians have been a unique intrusion by the federal government into the direct provision of education that has only been paralleled by the creation of Department of Defense schools for children of military members.

During certain periods of the nineteenth and twentieth centuries, U.S. policy was to eradicate the tribal cultures of Indians and assimilate them into the general population. Since most non-Indian children in the country attend public schools, part of this assimilationist policy was a long-term effort to also enroll Native children in public schools. However, a policy of removal of Indians to the west in the first part of the nineteenth century, followed a few decades later by a policy of placing them on reservations, ran counter to this assimilationist policy. In addition, racial prejudice against Indians by the dominant white population discouraged the integration of Indians into public schools well into the twentieth century.

The major purpose of schooling in colonial America was to teach all children to read the Bible. In 1819 Congress passed the Indian Civilization Act, which provided funding to religious groups and others willing to live among Indians and teach them “the habits and arts of civilization,” which included converting them to Christianity. In the 1830s and 1840s, the “common school” movement started to shape the look of the modern public school. President Thomas

Jefferson and others had previously noted that the new American republic required an educated and moral citizenry in order to have good leaders elected to office. Later, Horace Mann, first secretary of the Massachusetts Board of Education from 1837 to 1848, was the leading advocate for public schools that would promote social harmony and assimilate students, especially immigrants, into America's democratic republic. The Indian education policy of the new United States of America supported Mann's goals.

Breaking up Indian Reservations

The passage of the 1887 General Allotment Act (Dawes Act) allowed white settlers onto many Indian reservations and opened the way for the establishment of public schools for their children. Ardent assimilationists like Richard Henry Pratt, who founded the Carlisle Indian Industrial School in 1879, saw putting Indians into public schools where they learned side by side with whites as the best way to “civilize” them. At Carlisle, Pratt placed Indian students with local white families under an Outing System in which they were paid for their work and attended public schools. Like many others of his day, J. D. C. Atkins, commissioner of Indian affairs from 1885 to 1888, found no value in Indian culture and demanded Indians be taught only in English.

Thomas Jefferson Morgan, who followed Atkins as commissioner (1889–1893), wanted Indians to have “A comprehensive system of education, modeled after the American public school system . . . embracing all persons of school age, compulsory in its demands and uniformly administered” (Harry J. Sievers, “The Catholic Indian School Issue and the Presidential Election of 1892,” *Catholic Historical Review*, vol. 38, no. 2, 1952). The Carlisle Indian School publication, the *Red Man*, supported Morgan's belief that public schools were vital to training American citizens. Superintendent of Indian Schools Dr. William N. Hailmann told the National Educational Association's 1895 annual meeting that he supported an assimilationist Indian policy, including abolishing Indian reservations and placing Indians in public schools.

Abrogating (abolishing) numerous treaties, Congress forced the Cherokees, Creeks, Choctaws, Chickasaws, and Seminoles in the Indian Territory to give up their self-government with the 1898 Curtis Act. The president of the United States appointed their principal chiefs from that point until 1970; the Department of Interior took over their schools and transformed them into state-operated public schools.

To encourage public schools to enroll Indian students, the Office of Indian Affairs began contracting with individual school districts to pay for their education. However, in his 1904 annual report, Commissioner of Indian Affairs William A. Jones declared that “too frequently where contracts are made with [public] school districts the money to be paid by the Government is the main thing sought, and not a sincere desire to benefit the Indian.” These contracts required Indian students to be educated equally alongside white students, but this was not always done and some contracts were cancelled.

Cato Sells, commissioner of Indian affairs from 1913 to 1921, stated in his 1917 Declaration of Policy that all students whose parents could pay for their education or who lived near public schools should be removed from Indian schools. This resulted in the closing of boarding schools in eight states as well as some day schools. In 1923 the secretary of the interior convened a Committee of One Hundred, comprised of leading political figures, to recommend changes in Indian policy. The group elected Arthur C. Parker as their chair. Parker was a Seneca author, anthropologist, and great-nephew of Civil War general and former commissioner of Indian affairs Ely S. Parker. The committee’s report noted that there had been a rapid increase in Indians enrolled in public schools alongside non-Indian students, but that Indians had poor attendance. There were only nine hundred Indian students in public schools in 1909. This figure grew to 37,730 in 1926 and 48,000 in 1932. In 1916 enrollment in federal government schools reached a high of 27,764.

The U.S. policy of assimilation also included the passage by Congress in 1924 of the Indian Citizenship Act, which made all Indians U.S. citizens. However, the act did not affect the actual status of Indians very much. Luther Standing Bear in his 1993 book *Land of the Spotted Eagle* called it, “The greatest hoax ever perpetrated upon him [the Indian] . . . The signing of that bill changed not in the slightest measure the condition of the Indian. . . . Indian boys and girls are still segregated in school life.” Recollections of some public school graduates from the 1950s support Standing Bear’s observation. They recalled how the “full-blooded” Indians sat in the back of their public school classroom, the mixed-blood students in the middle, and the white students up front.

An Indian New Deal

In the 1920s a number of activists became very vocal in criticizing federal policy because they claimed it was making Indians poor instead of civilized. To counter this growing

criticism, the government commissioned a privately funded study of the Indian Office in 1926 known as the *Meriam Report*. The study condemned the poor quality of services the Indian Office provided and found that allotment was impoverishing Indians. In response, President Herbert Hoover in 1929 appointed a fellow Quaker and president of the Indian Rights Association, Charles J. Rhoads, as commissioner of Indian affairs. Rhoads appointed W. Carson Ryan Jr., a progressive educator who helped write the education section of the *Meriam Report*, as director of Indian education (1930–1935). Ryan’s program included supporting federal-state contracts to put Indian children in public schools and gradually phasing out boarding schools.

As part of the so-called Indian New Deal that ended allotment under President Franklin D. Roosevelt and Indian Commissioner John Collier (1933–1945), the United States gave tribes more self-government. Congress passed the Johnson-O’Malley (JOM) Act in 1934, which for the first time authorized the secretary of the interior to enter into contracts with states or territories to pay public schools to educate Indians. This altered the practice of dealing with each school district individually that had been in place since 1891. By 1934 these local contracts ran into the thousands. Between 1934 and 1941 four states with large Indian populations signed contracts under the new law.

Indian students faced many problems in public schools. Historian Margaret Connell Szasz concluded in her 1999 book *Education and the American Indian: The Road to Self-Determination Since 1928*, “Rural teachers who had to conform to the attitudes of the local populace often found it difficult to regard their Indian pupils with even ordinary civility and kindness.” In *They Call Me Agnes: A Crow Narrative Based on the Life of Agnes Yellowtail Deernose* (1995), Deernose remembered, “Even in the thirties and forties Crow children entered school without any real background in English. They didn’t have interpreters in the classroom then. . . . By the time the Indians were in fourth grade in public school, most of them were too far behind to keep up with the White kids in reading.”

Mark Monroe (Sioux), who attended the Alliance, Nebraska, public schools in the late 1930s and early 1940s, remembered in his 1994 autobiography, *An Indian in White America*, that “all Indian children regardless of age” were put in an “Opportunity Room” where: “they weren’t taught anything. They weren’t given a report card. They weren’t advanced from one grade to another. They just stayed in this room, drew pictures, and marked on the blackboard.” He

concluded, “This was the white school system’s way of obeying the state law to keep Indian children in school without teaching them.” In Alliance, Indians were at the bottom of the pecking order, below Mexicans and blacks, and stores in the town had signs saying “No Indians or dogs allowed.”

Termination

After World War II (1939–1945) there was a conservative reaction to the Indian New Deal and a renewed call by Congress to terminate Indian reservations and assimilate Indians. In 1952 there were an estimated 127,957 Indian children between the ages of six and eighteen, but less than 30 percent of them attended Bureau of Indian Affairs (BIA) schools. Fifty-two thousand attended public schools, of which 60 percent were supported with JOM funds for a cost of over \$2.5 million a year. The rapid progress being made to enroll Indian students in public schools fit the federal government’s new termination policy.

Public schools were further encouraged to enroll Indian students with the passage of Impact Aid. Because public schools were largely funded by property taxes, which Indians living on reservations did not pay, it was hard to build the schools on Indian reservations. In 1950 Public Laws 874 and 815 authorized funds for public schools in federally impacted areas to ensure that children living on tax-exempt land, such as military bases, did not cause a financial burden for public schools. In 1953 these laws were amended to include Indians living or working on reservations or other federal trust land. By the early twenty-first century, Public Law 874 provided a large part of the operating expenses of many reservation public schools, while Public Law 815 funds were used to build many of them. With the new Public Law 874 funds available to support Indian students in public schools, JOM funds were reduced and shifted from schools’ general operating funds to providing programs that delivered special services to Indian students. This could mean anything from providing Indian counselors to furnishing school supplies that parents could not afford.

On the large Navajo reservation there was not enough classroom space for all the students. The solution was to build dormitories in border towns to house students while they attended public schools. In 1954 agreements were signed with school boards in Arizona, New Mexico, and Utah, and by 1965 there were 4,200 students in BIA dorms attending public schools. In 1998 the BIA’s directory listed fourteen peripheral dorms housing students that were attending public schools.

Self-Determination

The Civil Rights movement of the 1960s helped reverse the termination policy and fostered more Indian involvement in the education of their children. In 1969 Indian educators founded the National Indian Education Association, which helped gain the passage of the Indian Education Act of 1972. This act provided for the first time federal funds for special programs for Indian students not living on reservations.

In 1971 the National Association for the Advancement of Colored People (NAACP) published a report titled *An Even Chance: A Report on Federal Funds for Indian Children in Public School Districts* that documented how JOM funds meant to help Indian students were being put into schools’ general operating budgets and used to educate all students, both Indian and non-Indian. New JOM regulations drawn up in 1974, in consultation with representatives of nearly forty Indian organizations, called for their use to fund only supplementary programs designed to meet the special needs of Indian students. Parent advisory committees were required for JOM programs and progress was made to shift the flow of JOM money from states to Indian groups. Despite the progress made, a 1976 Arizona study entitled *A Study of Public Schools On and Off Indian Reservations in Arizona* found: “While increasingly, Indian parents are encouraging their children to attend and complete the public school program, the students apparently feel an estrangement between their homes and schools. Most Indian parents are reported to feel rejected by the schools.”

In 1990 Congress finally reversed the English-only educational policy of the nineteenth century and termination era and passed the Native American Languages Act, which makes it government policy to “preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages . . . including [in] publicly supported education programs.”

The U.S. secretary of education’s Indian Nations at Risk Task Force reported in 1991 that during the 1989–1990 school year, 10 percent of Indian students were in BIA-funded schools, 3 percent were in private schools, and 87 percent were in public schools. Testimony gathered at the task force’s hearings indicated that many of these Indian students attended schools with a Eurocentric curriculum, low teacher expectations, and “overt and subtle racism.” The task force found “an unfriendly school climate that fails to promote appropriate academic, social, cultural, and spiritual development among many Native students,” which contributed to

Indians students having the highest high school dropout rate (36 percent) of any minority group in the United States.

Recent Initiatives

Public schools have been under increased attack since the publication of a widely studied 1983 report titled *A Nation at Risk: The Imperative for Educational Reform* because of their alleged failure to adequately educate students, especially ethnic minorities. The No Child Left Behind (NCLB) Act of 2001 focused attention on the gap between the academic achievement of Indians and other minorities and called for extensive testing. Title VII of the NCLB, the most recent version of the Indian Education Act, contains rhetoric about the need for culturally sensitive education for Indian students. However, a report by the National Indian Education Association on its implementation in Indian Country found the rhetoric to be empty and that the act was being used to eliminate a culturally relevant curriculum in favor of an emphasis on teaching reading and mathematics to prepare students for government-mandated standardized tests.

A few states are taking action to make their public schools more accommodating to their Indian students. In 1999 the Montana legislature passed the Indian Education for All Act that stated “every Montanan, whether Indian or non-Indian, is to be encouraged to learn about the distinct and unique heritage of American Indians in a culturally responsive manner.” New Mexico’s 2003 Indian Education Act established an Indian Education Advisory Council and required school districts with many Native students to make sure those students are offered culturally relevant classes, that Native language classes are taught in the schools, and that Native students are provided with more bilingual teachers and administrators. The state asks districts to actively recruit those professionals. In 2007 South Dakota officially created an Office of American Indian Education and required all new teachers to complete a course in South Dakota Indian studies. The state also mandated that public schools have to offer Lakota language courses to students who want to take them.

See also *Assimilation and Acculturation; Education: Boarding Schools; Education: Higher Education; Education: Mission Schools; Education: Reservation Schools; Indian New Deal; Indian Education Act (1972); Indian Self-Determination and Education Assistance Act (1975); Removal.*

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BIBLIOGRAPHY

- Arizona Department of Education. *A Study of Public Schools On and Off Indian Reservations in Arizona*. Phoenix: Arizona Department of Education, 1976.
- Indian Nations at Risk Task Force. *Indian Nations at Risk: An Educational Strategy for Action* (Final report of the Indian Nations at Risk Task Force). Washington, D.C.: U.S. Department of Education, 1991.
- Meriam, Lewis, ed. *The Problem of Indian Administration*. Baltimore: Johns Hopkins University, 1928.
- National Indian Education Association. *Preliminary Report on No Child Left Behind in Indian Country*. Washington, D.C.: National Indian Education Association, 2005.
- OPI Indian Education (Montana’s Office of Public Instruction Web site), www.opi.mt.gov/IndianEd/.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Reyhner, Jon, and Jeanne Eder. *American Indian Education: A History*. Norman: University of Oklahoma Press, 2004.
- Sievers, Harry J. “The Catholic Indian School Issue and the Presidential Election of 1892.” *Catholic Historical Review*, vol. 38, no. 2 (1952): 129–55.
- Special Subcommittee on Indian Education, Senate Committee on Labor and Public Welfare, *Indian Education: A National Tragedy, a National Challenge (Kennedy Report)*, 1969. www.tedna.org/pubs/Kennedy/toc.htm.
- Spring, Joel. *The American School, 1642–2004*, 6th ed. Boston: McGraw-Hill, 2004.
- Starnes, Bobby Ann. “Montana’s Indian Education for All: Toward an Education Worthy of American Ideals.” *Phi Delta Kappan*, vol. 88, no. 3 (2006): 184–192.
- Szasz, Margaret Connell. *Education and the American Indian: The Road to Self-Determination Since 1928*, 3rd ed. Albuquerque: University of New Mexico Press, 1999.

Education: Reservation Schools

The reservation period of United States Indian policy began in the mid-nineteenth century, and provisions for school buildings and teachers for the reservations were included in most treaties. The schools were designed to teach Indian students at an elementary level and to train them in agriculture and industry, thus preparing them for assimilation into white society as independent, English-speaking, Christian farmers and laborers. Missionaries operated the first reservation schools, but as the states began public education programs, responsibility for Indian education was gradually assumed by the federal government. In 1840, with the support of social reformers, Commissioner of Indian Affairs T. Harley Crawford lobbied for betterment of Indian education and manual labor schools. But Indian education on the reservations was underfunded and mostly neglected until the 1880s. In addition to the schools on reservations, a number of industrial training boarding schools were constructed around the country.

In 1889 Thomas Jefferson Morgan was appointed commissioner of Indian affairs. He was determined to reform and unify the Indian educational system. His policies promoted industry, patriotism, individualism, “English only” coeducation, and the rejection of tribal affiliation in favor of American citizenship. Morgan’s plan for assimilation was to move the Indian child from the reservation day school to the reservation boarding school, and then on to the industrial training school off the reservation. The plan failed for a number of reasons, not the least of which was underfunding and objections by Indian families and some missionaries.

By 1900 enthusiasm for off-reservation boarding schools was declining and Indian commissioner William A. Jones decided that the best education for Indians was at boarding schools located on the reservations. Commissioner Francis E. Leupp subsequently expanded boarding and day schools on the reservations and encouraged the off-reservation schools to continue specializing in industrial training. Over the next few years, public schools for Indians were promoted as the final solution, but were soon found to be unsatisfactory for the unique needs of Indian children.

In 1928 the *Meriam Report* criticized the quality of education that reservation Indians received. The efforts of Commissioner John Collier and the Indian Reorganization Act of 1934 brought needed changes and a shift away from forced assimilation policies. The federal government constructed more schools within Indian communities, and Native art and history were introduced into the curriculum.

In the latter part of the twentieth century, Indian rights activists precipitated radical changes in Bureau of Indian Affairs (BIA) education. Tribal self-determination and sovereignty movements gained power, and by 1995 tribes managed half of the elementary and secondary schools on reservations. By the 2003–2004 school year, through grants and contracts, the tribes were operating 120 of the 184 BIA-funded elementary and secondary schools, with 45,828 students on sixty-three reservations in twenty-three states. In 2007 the Bureau of Indian Education (BIE) was removed from under the jurisdiction of the Bureau of Indian Affairs, reorganized, and placed separately under the U.S. Department of the Interior. In 2008 the vast majority of Indian students on reservations attended public schools that received federal funding.

See also *Assimilation and Acculturation; Education: Boarding Schools; General Allotment Act (Dawes Act) of 1887; Indian Reorganization Act (1934); Meriam Report.*

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BIBLIOGRAPHY

- Adams, David Wallace. *Education for Extinction: American Indians and the Boarding School Experience 1875–1928*. Lawrence: University of Kansas Press, 1995.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Reyhner, Jon, and Jeanne Eder. *American Indian Education: A History*. Norman: University of Oklahoma Press, 2004.
- Szasz, Margaret Connell. *Education and the American Indian: The Road to Self-Determination Since 1928*, 3rd ed. Albuquerque: University of New Mexico Press, 1999.
- Walke, Roger. “Federal Indian Education Programs: Background and Issues,” October 9, 2007. <http://openncrs.com/document/RL34205/>.

Eisenhower, Dwight D.

Dwight D. Eisenhower (1890–1969) served as president of the United States from 1953–1961. During his tenure, Congress enacted three programs that dramatically impacted the lives of many Native Americans: termination, relocation, and the transfer of federal law enforcement jurisdiction over reservation areas to the states (Public Law 280).

These measures promoted complete assimilation of Native Americans into the dominant society. Eisenhower approved termination and Public Law 280, as well as other legislation, with the condition that Native Americans and tribal governments be actively involved and consulted when facing relocation, termination, or the transfer of federal jurisdiction. In reality, the tribes were rarely—if ever—consulted about the policies affecting them, and Eisenhower was unable to enforce cooperation.

The two commissioners of Indian affairs during the Eisenhower administration were advocates of termination—a policy which sought to remove Indians from federal protection and assimilate them into mainstream American society. Dillon Myers was strongly criticized for his insensitivity in dealing with Native Americans and Native issues, so Eisenhower’s request for his resignation in 1953 relieved many concerns. Eisenhower’s choice to replace Myers was Glenn Emmons, a banker from Gallup, New Mexico, who had the support of the Navajos. This appointment indicated Eisenhower’s interest in fostering a better relationship with Natives, but at the same reinforced termination as a goal of his administration. Emmons promoted tailoring the withdrawal of federal supervision over tribes to the needs of the specific tribes, but he also hoped to see trusteeship rapidly brought to an end.

While Eisenhower inherited the policy of termination from President Harry S. Truman, he continued to promote it

during his administration through his appointments and approval of assimilationist legislation.

See also *Emmons, Glenn L.*; *House Resolution 108*; *Myer, Dillon S.*; *Public Law 280*; *Termination and Restoration*; *Relocation Program*; *U.S. Indian Policy: Congress and the Executive, 1944–1962*.

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BIBLIOGRAPHY

- Burt, Larry. *Tribalism in Crisis: Federal Indian Policy, 1953–1961*. Albuquerque: University of New Mexico Press, 1982.
- Fixico, Donald. *Termination and Relocation: Federal Indian Policy, 1945–1960*. Albuquerque: University of New Mexico Press, 1986.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.

Elk v. Wilkins (1884)

In the important civil rights case *Elk v. Wilkins* (1884), the U.S. Supreme Court ruled that Indians were not citizens of the United States. Prior to passage of the Indian Citizenship Act of 1924, the question of Native American citizenship was a complicated issue. A limited number of tribes had been granted citizenship through conditions set by various treaties, but the majority remained noncitizens. The Fourteenth Amendment, ratified in 1868, opened the door for Native American citizenship. The amendment states that all persons who are born within the United States and subject to U.S. jurisdiction are citizens of the United States and the state in which they reside.

Whether the Fourteenth Amendment granted Native Americans citizenship was decided by the Court in *Elk*. John Elk, a member of the Omaha tribe of Nebraska, was denied the right to vote in 1880 by Charles Wilkins, a voting registrar in Omaha. Elk argued that he had “completely surrendered himself to the jurisdiction of the United States” by severing his tribal allegiances and taking up farming away from the reservation. Denied the right to vote based solely on his Indian heritage, Elk filed suit in the federal courts. In a split decision, the Court majority ruled against Elk, arguing that Indian tribes’ peculiar status as domestic dependent nations did not make them subject to the jurisdiction of the United States. Citizenship for Native Americans, the Court argued, could only be granted by a congressional act. Consequently, three years later, a provision for Indian citizenship was provided for in the General Allotment Act (Dawes Act) of 1887. Those Indians who took allotments of land under the act qualified for citizenship. The Indian Citizenship Act of 1924 finally granted citizenship to all Native Americans.

See also *Citizenship, United States and State*; *General Allotment Act (Dawes Act) of 1887*; *Indian Citizenship Act of 1924*.

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BIBLIOGRAPHY

- Elk v. Wilkins*, 112 U.S. 94 (1884).
- Martin, Jill E. “Neither Fish, Flesh, Fowl, Nor Good Red Herring: The Citizenship Status of American Indians, 1830–1924.” *Journal of the West*, vol. 29, no. 3 (1990): 75–87.

Emmons, Glenn L.

The commissioner for Indian affairs from 1953 until 1961, Glenn Leonidas Emmons (1895–1980) was born in Alabama. He worked as a locomotive fireman from the age of fifteen and then for a lumber company before entering banking in Gallup, New Mexico. From 1935 to 1964 he served as president and chair of the board of the First State Bank in Gallup. During World War II (1939–1945), Emmons was a lieutenant in the army and later became treasurer of the Bankers’ Association. A Republican, Emmons became active in politics in New Mexico and was a prominent and eager supporter of termination, a program that sought to remove Indians from government protection and assimilate them into mainstream American society.

Emmons carried out the termination policies begun by his predecessor, Dillon Myer. The Eisenhower administration had replaced Myer, who was unpopular with Natives, and had undertaken to “consult and confer” over Indian policy decisions. Emmons also pushed through the policy of relocation, moving many Native Americans from reservations in the hope that they would assimilate and adopt an urban lifestyle.

During his tenure Emmons visited 150 reservations and was disturbed by the poor living conditions of the Indians and their opposition to termination. As a result, he modified his own views on the policy and decided to devote himself to improving education, raising the standard of Native health care, and expanding economic possibilities for Indians. After leaving office he returned to banking and retired in 1964.

See also *Eisenhower, Dwight D.*; *Relocation Program*; *Termination and Restoration*.

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BIBLIOGRAPHY

- Burt, Larry. *Tribalism in Crisis: Federal Indian Policy, 1953–1961*. Albuquerque: University of New Mexico Press, 1982.

Fixico, Donald L. *Termination and Relocation: Federal Indian Policy, 1945–1960*. Albuquerque: University of New Mexico Press, 1990.

Employment, Regulation of

Increasing numbers of American Indian tribes engage in diverse businesses and enterprises to strengthen their economies and further their self-sufficiency. Although gaming is the most visible Indian enterprise, relatively few tribes actually operate multimillion dollar casinos. Many tribes engage in a range of industries such as manufacturing, construction, forestry, recreation, agriculture, and technology. Because tribes are governments, revenue from such activity is like tax revenue generated by states and the federal government: tribal businesses and enterprises fund government, infrastructure, education, cultural development, health care, housing, elder care, and other social services. They also provide job training and employment for tribal citizens who might otherwise lack these opportunities. Tribes may also employ Indians of other tribes or non-Indians. Tribal enterprises located near non-Indian communities may contribute significantly to the economies of those communities; for example, Indian casinos located near large population areas may employ more than a thousand people.

Regulation of Employment by Tribal Law

With the employment relationship comes issues concerning its formation, dissolution, terms, and conditions. A vast body of federal and state law governs nontribal employment in the private and government sectors. Even though tribes are sovereign governments, they face many of the same issues as other employers. They have therefore developed laws and policies to govern their status as employers and their relationships to persons they employ. The tribal workplace is fundamentally regulated by tribal law, and disputes regarding it are resolved in tribal forums. Some aspects of tribal employment, however, may be regulated by federal law. State law generally does not apply to tribal employment unless tribes have consented to state regulation.

Each tribe draws upon its own distinct culture, customs, and traditions in shaping its laws. Because tribes differ in these respects as well as in economic status and scope of employment and workforce, tribal employment law varies among tribes. Tribes may regulate employment in their constitutions, written laws, or common law. They may also address terms and conditions of employment in personnel policies, practices, and procedures. All of these sources must

be consulted first in examining an employment issue involving a tribal employer.

Some tribes adopt specific federal or state employment statutes and common law; others regard them as advisory only. Most often, tribal laws governing the employment relationship resemble federal or state laws but are adapted to the customs, traditions, means, and needs of the particular tribe as well as the nature of its operations, the size of its workforce and, significantly, its status as a sovereign entity. That status enables a tribe, like any other government, to limit suits against it for monetary damages. A tribe might create a medium for resolution of employment disputes outside of tribal courts in an administrative or conciliatory forum, or it might limit remedies, including damage awards, in tribal courts.

Tribes have legislated workers compensation systems, employee benefits, wages and hours, unemployment compensation, antidiscrimination laws, labor-management relations, and right-to-work laws and tribal employment rights ordinances (TEROs). Tribes with large workforces may develop their own workers compensation programs by contracting with insurance providers, or they may adopt the system of the states in which they are located. The latter course is often not favored, as it cedes jurisdiction to the state over the issue. State courts have been uniformly held to lack jurisdiction over tribal workers compensation cases because state workers compensation law does not cover Indian tribes unless the tribe has placed itself under state coverage in its own laws or policies or in an agreement with an insurance carrier. Many tribes have also legislated prohibitions against harassment, including sexual harassment, and discrimination on the bases of sex, religion, age, disability, veteran status or other characteristics. These prohibitions generally do not specify race or national origin, as TEROs give preference in hiring to tribal members or to Indians generally, and tribes are exempt from federal antidiscrimination laws, as discussed below.

Regulation of Employment by Federal Law

As to the question of whether federal laws apply to Indian tribes, it must be remembered that the U.S. Congress, under the so-called Indian Commerce Clause of the Constitution, may enact legislation regulating the activities of Indian tribes. One example pertinent to tribal employment is the Indian Civil Rights Act (ICRA), which imposes limitations on actions by tribes similar to those imposed on the federal government by the Constitution. Like the Constitution, the ICRA requires that tribes provide due process and equal

protection of the law to individuals under their jurisdictions; however, those concepts need not mirror the requirements of the Constitution. Indeed, Indian tribal societies and governments have historically embodied the notions of fairness and equality of treatment in custom and tradition, and tribes incorporate relevant principles into laws governing the treatment of employees. Even though the ICRA is a federal statute expressly applicable to tribes, disputes concerning due process and equal protection requirements of the act are resolved in tribal courts rather than federal courts.

When a federal statute is silent with respect to Indians or Indian tribes, it is a more difficult task to determine whether the statute applies to them. Most federal labor and employment statutes make no mention of Indian tribes. Since the 1960s the legislative and executive branches of the federal government have generally advanced laws and policies recognizing tribal sovereignty and encouraging tribal economic development and self-sufficiency. Indian tribes as sovereign governments possess the rights to govern their lands, raise funds, manage their economies, and regulate consensual relationships such as employment between themselves and others. Courts are to err in favor of retention of Indian rights, particularly a tribe's rights as a sovereign government, in issues that involve vague or confusing wording in statutes concerning them. However, despite the uncertainty created by congressional silence as to coverage of Indian tribes as employers, lower federal courts have increasingly diminished tribal authority over their employment relationships by imposing federal labor and employment laws on tribal businesses and enterprises, thereby placing them under the jurisdiction of federal courts and exposing them to federal administrative procedures and liabilities.

Federal labor and employment statutes typically exclude nontribal government employers from coverage or limit their liability regardless of whether those employers' economic activity is governmental or commercial in nature. However, federal courts have begun to view many tribal economic activities not as economic activities resembling those of public-sector government employers, but as those of nontribal employers in the private sector. Those courts label tribal economic activities as either commercial or governmental, and apply federal labor and employment statutes to activity they deem commercial. Factors influencing courts to find that tribal economic activity is commercial include the nature and location of the activity, employment of non-Indians, and participation of non-Indians in the activity. Courts have limited tribal governmental employment activ-

ity to that taking place on tribal land and directly involved in the political, social welfare, or public service arms of tribal governments.

Federal antidiscrimination laws have been held not to apply to tribal employment. Two such laws expressly exclude Indian tribes from their definitions of "employer": Title VII of the Civil Rights Act of 1964, which prohibits discrimination in employment because of race, color, sex, religion, and national origin; and Title I of the Americans with Disabilities Act (ADA), which requires employers to reasonably accommodate individuals with disabilities. Legislative history of Title VII indicates that this exclusion was enacted because of reluctance to interfere with tribes' power as sovereigns to conduct their own economic activities; the ADA exclusion purposely followed that of Title VII. Likewise, a general antidiscrimination statute prohibiting employment discrimination because of race and race-based ethnicity, 42 U.S.C. § 1981, has uniformly been held not to apply to Indian tribal employers.

The governmental or commercial distinction appears in almost every federal court's analysis of whether a federal labor and employment statute applies to a tribal employer. The Age Discrimination in Employment Act of 1967 (ADEA), which prohibits employment discrimination against persons aged forty and older, is silent with respect to Indian tribes, although its definition of "employer" is otherwise like that of Title VII. Federal courts that have addressed the issue of coverage have held that this law does not apply to Indian tribes, linking it to Title VII's exclusion of tribes and interpreting the vagueness of coverage in favor of tribal sovereignty. However, one court noted as significant the fact that a complaining employee was a member of the tribe that employed him; another court relied on the fact that the employee worked for the tribe's housing authority, an arm of its government.

Courts have similarly analyzed federal statutes that govern terms and conditions of employment and are silent as to Indian tribes. The Fair Labor Standards Act (FLSA), which regulates wages and hours, exempts certain categories of public-sector jobs, such as law enforcement. In a case involving claims by game warden police employed by a union of tribes holding hunting and fishing rights, a court equated that job to the FLSA's law enforcement personnel exemption and held that the statute did not apply to the wardens. Another case applied the same reasoning to tribal police officers. Both courts distinguished the tribal employees' governmental jobs from jobs of a commercial nature, implying the FLSA might

apply to a tribe if employment of a different sort were involved. On the other hand, tribal farms and lumber mills were found to be covered by two statutes that otherwise exempt government employers: the Occupational Safety and Health Act (OSHA), which sets and enforces standards for workplace health and safety, and the Employee Retirement Income Security Act (ERISA), which regulates employer-funded health and pension plans. These were applied because some of the employees of the operations were nontribal citizens and the products were sold in interstate commerce.

Questions regarding application of federal statutes are currently arising from attempts by unions to organize workers in Indian casinos pursuant to the National Labor Relations Act (NLRA), which is administered by the National Labor Relations Board (NLRB). The NLRA regulates union-management relations; it protects union organizing activities and requires employers to recognize unions elected by employees as their representatives in collective bargaining over wages, benefits, and other terms and conditions of employment. Significantly, the act excludes governmental employers from coverage but is silent with respect to Indian tribes. From 1976 to 2004, NLRB decisions treated Indian tribes operating businesses on their lands as governments and therefore exempt from the act's regulation of employee organizing and bargaining activities. However, it abruptly changed course in a case involving a casino owned and operated by the San Manuel Band of Serrano Mission Indians on tribal land. The NLRB's decision to apply the NLRA to the casino was affirmed by the U.S. Court of Appeals for the D.C. Circuit in 2007.

While the court acknowledged the casino to be the primary source of revenue for the tribe's government, it nevertheless found operation of a casino was not "a traditional attribute of self-government," and that employment of non-tribal citizens and patronage by noncitizens were not matters implicating tribal sovereignty. Thus, the court concluded, application of the NLRA to tribal casino operations would not infringe on tribal sovereignty. The court further held that the NLRB's determination that Indian tribes do not fall within the NLRA's exemption of governmental employers was a permissible construction of that statute.

In its underlying decision, the NLRB differentiated between activity of a commercial nature, such as operating a casino, and activity of a governmental nature, such as operating a hospital. Although it determined that Indian tribes fall within the NLRA's definition of "employer," it exercised its discretion not to assert jurisdiction over tribal employ-

ment of a governmental nature. It therefore declined to take jurisdiction in another case involving a tribally governed health services program operated with federal funds, but whose patients are 95 percent Native Alaskans. The NLRB assesses each case involving tribal employment individually to determine whether it is commercial or governmental.

Immediately after the 2004 NLRB decision regarding the San Manuel casino, bills were proposed in Congress to amend the NLRA to exclude Indian tribes from coverage. However, after the D.C. circuit court affirmed coverage of casino employment in 2007, efforts to amend the NLRA have remained ineffectual. Recent legislation, enacted a month before the circuit court ruling, suggests congressional approval of the governmental or commercial characterizations of tribal economic activity. Congress amended ERISA's exemption of "governmental plans" to include plans established and maintained by Indian tribal governments when employee participants in the plan perform "essential government functions," but not when plan participants perform commercial activities, regardless of whether those activities amount to essential government functions.

The distinction between an Indian tribe's role as an employer and its role as a sovereign lawmaker arose in a NLRA case in the U.S. Court of Appeals for the Tenth Circuit involving union efforts to organize a casino operated by the San Juan Pueblo Indians. At issue was the validity of the San Juan Pueblos' right-to-work law, which applied not only to its own employment activity but that of private sector employers operating businesses on its land. "Right-to-work" is the common name for state laws that prohibit the requirement of union membership as a condition of employment; this requirement is called a "union security clause" under the NLRA. The NLRA permits "states and territories" to enact laws invalidating union security clauses. The court held that tribal governments are "major policy-making units" that fall within the NLRA's "states and territories" language and upheld the Pueblos' right-to-work law. Significantly, the court declared the Pueblos' enactment of the right-to-work law to be "an exercise of sovereign authority over economic transactions on the reservation." This decision is at odds with the D.C. circuit court decision holding that Indian tribes fall within the definition of "employer" under the NLRA, however, because that definition does not include "states and territories" or other governmental entities.

Although the issue of coverage of tribes by federal labor and employment statutes differs from the issue of a tribe's

ability to enact laws governing its territory, both are united by the overarching issue of the extent to which the federal government recognizes Indian tribes as sovereign entities that possess the ability to govern economic transactions between themselves and others on their own lands.

See also *Indian Civil Rights Act*; *Indian Commerce Clause*; *Tribal Employment Rights Ordinances*.

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BIBLIOGRAPHY

- Fletcher, Matthew L. M. "Tribal Employment Separation: Tribal Law Enigma, Tribal Governance Paradox, and Tribal Court Conundrum." *University of Michigan Journal of Law Reform*, vol. 38 (Winter 2005): 273–343.
- Limas, Vicki J. "Application of Federal Labor and Employment Statutes to Native American Tribes: Respecting Sovereignty and Achieving Consistency." *Arizona State Law Journal*, vol. 26 (Fall 1994): 681–746.
- . "Employment Suits Against Indian Tribes: Balancing Sovereign Rights and Civil Rights." *Denver University Law Review*, vol. 70 (1993): 359–392.
- National Indian Law Library. "Tribal Code and Constitution Directory—the A-Z List." *Native American Rights Fund*, www.narf.org/nill/triballaw/az.htm.
- Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005.
- Tiller, Veronica E. Velarde, ed. *Tiller's Guide to Indian Country: Economic Profiles of American Indian Reservations*. Albuquerque, N.M.: BowArrow Publishing Company, 2005.

Employment Division v. Smith (1990)

Employment Division v. Smith (1990) dramatically altered the test used to determine whether the government had violated the First Amendment's guarantee of free exercise of religion. The case arose when two men, who were members of the Native American Church and who ingested peyote as part of a church ceremony, were fired from their jobs as drug rehabilitation counselors for failing a drug test. The two applied for unemployment compensation benefits but were denied on the grounds that they were fired for work-related misconduct. The two men filed suit, alleging the denial of unemployment benefits violated their right to free exercise of religion.

Prior to *Smith*, the relevant test under the free exercise clause was the *Sherbert* test (from *Sherbert v. Verner* [1963]), which first asked whether the government placed a substantial burden on the practice of religion. If so, the government was required to show that it enacted the law to further an

important governmental purpose and that the law used the least intrusive means possible to achieve that goal.

In *Smith*, the Supreme Court declared that the proper first inquiry was not whether the government substantially burdened a religious practice, but rather whether the law was a neutral law of general applicability. Neutral laws of general applicability do not intentionally discriminate against religion and apply equally to the general population. Oregon's drug use laws were at the heart of *Smith*. Oregon included peyote on the list of prohibited substances, and the case focused on whether Oregon had to provide an exemption to its drug laws for those who used peyote as part of a religious ceremony.

Until *Smith*, the test under the free exercise clause examined the effect of a particular law on a religion. In *Smith*, the Court changed the test to focus on the motivation behind the law, on whether it was written with the intent of discriminating against a particular religion. Because neutral laws of general applicability do not draw distinctions based on religion, they do not, according to the Court, violate an individual's right to free exercise of religion. Any burden on the practice of religion is an incidental side effect of the law and does not trigger constitutional scrutiny. If the law is not neutral and generally applicable, courts will inquire whether the law is justified by a compelling governmental interest and whether it is properly tailored to achieve that interest.

Congress reacted to *Smith* by enacting the Religious Freedom Restoration Act (RFRA) in 1993, which sought to reinstate the *Sherbert* test. In *City of Boerne v. Flores* (1997), the Court declared that Congress lacked the constitutional authority to impose RFRA on the states, but that it could impose the higher standard on the federal government.

While *Smith* could have far-reaching consequences for all religions, those consequences could be even greater for American Indian religions. Some Native religions center on land and require certain ceremonies be performed at certain locations. Others are sacrament-based and require certain rituals, but not at certain locations. The Court has addressed both land-based (in *Lyng v. Northwest Cemetery Protective Association* [1988]) and sacrament-based (in *Smith*) American Indian religions. The Court used both cases to alter its approach to interpreting the free-exercise clause. In *Lyng*, the Court narrowed the definition of "substantial burden" in such a way as to exclude the burden suffered by the Indians in that case, resulting in a decision of no constitutional violation. In *Smith*, the Court refused to apply the substantial burden test, instead declaring that neutral laws of general

applicability (such as laws prohibiting possession and ingestion of peyote) did not violate the free exercise clause, regardless of the burden they placed on a religion. Prior free exercise cases held that denial of unemployment compensation benefits was a substantial burden for purposes of the *Sherbert* test. *Smith* and *Lyng*, both cases concerning Indian law, resulted in major changes in the interpretation of the free exercise clause and in findings of no violation of American Indians' right to free exercise of religion.

By altering the legal test for determining whether the government violated a person's right to free exercise of religion, the *Smith* decision potentially reduces each individual's constitutionally protected religious freedom. To prove a violation of that right, a person must now demonstrate that a law discriminates against religion, and not just that the law substantially burdens the practice of religion. Congress has held the federal government to a higher standard, and the federal government can pass a law that substantially burdens religion only if it has a compelling justification.

See also *Lyng v. Northwest Indian Cemetery Protective Association* (1988); *Religious Freedom*; *Religious Freedom Restoration Act of 1993*.

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BIBLIOGRAPHY

- American Indian Religious Freedom Act*, Public Law 95-341, 95th Cong., 2d sess. (August 11, 1978).
- Cook-Lynn, Elizabeth. "A Monograph of a Peyote Singer: Asa Primeaux, Sr." *Wicazo Sa Review*, vol. 7, no.1 (Spring 1991): 1-15.
- Dussias, Allison. "Ghost Dance and Holy Ghost: The Echoes of Nineteenth-Century Christianization Policy in Twentieth-Century Native American Free Exercise Cases." *Stanford Law Review*, vol. 49, no. 4 (1997) 773-852.
- Religious Freedom Restoration Act of 1993*, Public Law 103-141, 103rd Cong., 1st sess. (November 16, 1993).

Endangered Species Act (1973)

The Endangered Species Act (1973) provides broad protection for threatened or endangered species of fish, wildlife, and plants. The act created two categories for listing a species (threatened or endangered), provides for the protection of a species' critical habitat, outlines procedures the government must take if actions may affect a listed species, and details how a recovered species is removed from the threatened or endangered list.

The U.S. Fish and Wildlife Service has stated that its organization and American Indian tribes have the common

goal of saving declining species and their ecosystems. However, the service recognizes Indian lands are not federal public lands or part of the public domain, and as such they are not subject to federal public land laws. Therefore, the secretaries of the interior and commerce issued Secretarial Order #3206, which clarified the responsibilities of the government when taking actions under the act that might affect Indian lands, trust resources, or the exercise of tribal rights.

The act has been the subject of much litigation. Certain federal courts have held that it abrogates (repeals) the treaty rights of American Indian tribes to hunt and fish where a threatened or endangered species is involved. In *United States v. Billie* (1987), a federal district court in Florida found that Congress had considered the conflict between the act and treaty rights, and that Congress's intent had been to abrogate treaty rights to hunt and fish where they conflicted with the act.

See also *Fishing, Hunting, and Gathering Rights*.

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BIBLIOGRAPHY

- Endangered Species Act*, Public Law 93-207, 93rd Cong., 1st sess. (December 28, 1973).
- U.S. Department of the Interior and U.S. Department of Commerce. "Secretarial Order #3206: American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act." June 5, 1997, www.fws.gov/endangered/tribal/Esatribe.htm.
- United States v. Billie*, 667 F. Supp. 1485 (S.D. Fla. 1987).

Environment and Environmental Protection

Environmental protection law in the United States is widely considered to have originated in the 1970s, at least as a matter of federal legislation. For Indian tribes, however, involvement in environmental protection has historically been tied to efforts to maintain their cultures, identities, and rights of self-government. Many Native American tribes have special cultural or religious connections to specific locations in North America. Various wildlife and plant species are important for material cultural traditions and Indian ceremonies. The centuries of Native efforts to hold on to their aboriginal territories through treaties with the federal government—or through other means, such as armed resistance—can be seen as a form of environmental management. The tribes sought to retain control over

enough of their homelands to provide for the continuation of the tribe's material culture.

The status of Indian tribes within the American system of government is alluded to in the Constitution, specifically in the Commerce Clause and the Treaty Clause, but more comprehensive judgment on the issue is found in a body of court decisions, acts of Congress, and policies and decisions of the federal government's executive branch. Many of these legislative efforts arose from disagreements over natural resources and the ways they can be used, such as hunting, fishing, forestry, farming, and mineral mining. Many of the court decisions also involved disputes over which level of government had the authority to regulate or tax such uses: the federal government, the states, or the tribes. In many of these cases, the executive branch attempted to protect tribes from encroachments by the state in accordance with a legal doctrine called the federal trust responsibility, in which the federal government acted as trustee for the tribes. In other cases, tribes sued the federal government for alleged violations of its trusteeship duties.

Measured Separatism within Reserved Tribal Homelands

The practice of entering into treaties to establish reservations for Indian tribes, which began in the colonial era, was based on the recognition that Indian nations were sovereign entities with the power to govern their own territories. Through treaty making, the colonial powers, and later the United States, acquired the rights to vast areas of land. One of the most important promises that each of the tribes received in exchange for their land was that the United States would protect tribal rights within the territories that tribes reserved for themselves, including that of self-governance. Professor Charles Wilkinson has described the essence of this arrangement as "measured separatism" (Charles Wilkinson, *American Indians, Time, and the Law*, 1988). After 1871, when Congress unilaterally ended the practice of entering into treaties with tribes, the federal government continued to establish reservations, generally by executive order or act of Congress.

The "measured separatism" of the treaties reflected the fundamentally different belief systems of Natives and colonial officials regarding the natural world and the relationships of humans to that world. At the risk of oversimplification, it is generally accurate to say that the settlers from Europe and their sovereigns treated land as a commodity that could be bought and sold, and they believed that individual landown-

ers had the right to exploit the resources of their lands in order to make profits. In tribal cultures, on the other hand, land was not treated as a commodity. Rather, Native attitudes toward the land might be described by the concept of stewardship. Human beings were believed to have responsibilities to other living things, to future generations, to the graves of ancestors, and to spirit beings. In tribal cultures, people hunted, fished, gathered wild foods, and engaged in agriculture, but there was a concept of balance, of not taking more than was needed. This is not to say that all Indians consistently adhered to such principles; tribal oral traditions often include stories that emphasize the consequences of not following the rules—the existence of such stories suggests that sometimes the rules were broken.

The practice of establishing Indian reservations allowed for accommodation of tribal attitudes toward land within the American legal system. Indian lands within reservations were generally considered to be held in common ownership. This ownership was generally considered to be divided between the federal government and each of the tribes—the federal government held the legal title, what lawyers call the "fee," and the tribe held the beneficial title, or the rights to use and occupy the land. This concept of ownership is described as the federal government holding Native land "in trust" for the Indians. Federal trust ownership still applies in the early twenty-first century to most tribal lands, although on many reservations much of the land base is owned by individual Indians and non-Indians as a result of federal laws enacted during the allotment era of federal Indian policy, which stretched from the late nineteenth century until 1934.

For some tribes, particularly those in the Pacific Northwest and Great Lakes regions, treaties also included rights that extended to off-reservation resources, such as usual and customary fishing sites. Some tribes have statutory rights to harvest resources in certain federal lands. Tribes in Alaska do not have reservations (with one exception), but Alaska Natives do have statutory rights under the Alaska National Interest Lands Conservation Act to carry on their cultural practices. Under the Native American Graves Protection and Repatriation Act of 1990, all tribes have statutory rights regarding the graves of their ancestors on federal lands, and, under the 1992 amendments to the National Historic Preservation Act, each tribe has the right to be consulted when a proposed federal action might affect a property that holds historic religious or cultural significance for that tribe.

The First Generation of Federal Environmental Laws

Current environmental protection is carried out through a collection of federal laws, most of which were first enacted in the 1970s. These laws include the National Environmental Policy Act; the Clean Air Act; the Clean Water Act; the Safe Drinking Water Act; the Endangered Species Act; the Resource Conservation and Recovery Act (also known as the Solid Waste Disposal Act); and the Comprehensive Environmental Response, Compensation, and Liability Act (also known as “Superfund”). The basic approach of most of these statutes was to create a partnership between the federal government and the states, a partnership that is sometimes called “cooperative environmental federalism.” Under this arrangement, the federal government takes the lead role in some aspects of environmental protection, while the states take the lead in others. For instance, under the Clean Water Act, the states are responsible for adopting water quality standards for surface water bodies, but these standards must be approved by the federal Environmental Protection Agency (EPA). Some programs that begin as federal responsibilities can be taken over later by the states. Turning again to the Clean Water Act for an example, the EPA administers the permit program that regulates so-called point sources of water pollution (pollution that occurs when a harmful substance is emitted directly into a body of water), but this program can be delegated to the states.

The cooperative federalism arrangement recognizes that the enactment of laws to protect the public health and safety is an aspect of governmental authority that is within the inherent sovereignty of the states, and that the states should play a major role in creating environmental regulatory programs. For example, while federal policies establish minimum conformity requirements for environmental statutes, states can generally implement programs that are stricter than required by the federal law. This can mean regulating pollutants that are not covered by federal law.

In the 1970s, when Congress enacted the first generation of federal environmental regulatory statutes, it paid very little attention to how tribal governments would fit into cooperative environmental federalism. Federal Indian policy was emerging from the era of termination—during which the federal government sought to end its financial responsibilities to the Indian tribes—and moving into the era of tribal self-determination. In the 1960s, as federal policy shifted away from termination, there were hundreds of federally rec-

ognized Indian tribes, each of which still possessed inherent sovereignty, but the great majority of these tribes lacked the financial resources to exercise much in the way of real governmental authority.

The Indian Self-Determination and Education Assistance Act of 1975 began to change this by establishing a framework through which tribes could take over responsibility for governmental programs administered by the Bureau of Indian Affairs (BIA) and Indian Health Service (IHS). Contracts signed between these two organizations and the tribes provided the tribes with the funding to run the programs. During the next decade, Native Americans increasingly became the primary providers of governmental services within their reservations. This positive change, however, came after the enactment of the first generation of environmental laws.

Environmental Protection Agency Policy for Indian Lands

The EPA is charged with carrying out and overseeing implementation of most of the federal environmental laws. In the 1970s and early 1980s, the agency was faced with some decisions regarding how the laws would be implemented within Indian reservations, and some of those decisions were subsequently challenged in court. In light of legal principles derived from the body of federal court decisions, the EPA generally took the position that the federal environmental statutes did not authorize states to exercise environmental regulatory authority within reservations. In an early example of this approach, in the mid-1970s the EPA issued regulations implementing a program created by the Clean Air Act intended to keep air from becoming polluted. The program was called Prevention of Significant Deterioration (PSD). The EPA designated most areas where the air quality was already in compliance with the national standards as Class II and authorized states and tribes to “redesignate” areas under their jurisdiction to either Class I (allowing very little incremental pollution) or Class III (allowing more pollution than Class II while still meeting the national standards. The Northern Cheyenne tribe in Montana redesignated its reservation as Class I, the most stringent classification, but when the EPA approved the classification, its decision was challenged in court by several parties representing mining interests. In *Nance v. Environmental Protection Agency* (1981), the federal Court of Appeals for the Ninth Circuit upheld the EPA’s decision. Before the case was resolved in court, Congress amended the statute to explicitly authorize tribes to redesignate their reservations.

Another early case involved the hazardous waste regulatory program under the Resource Conservation and Recovery Act, a program that is administered by the EPA but which carries the option for states to apply to the agency to take control of it. The State of Washington sought EPA approval to administer its hazardous waste regulatory program within Indian reservation boundaries under the act. The EPA denied the request, and the Ninth Circuit upheld the EPA's decision in *State of Washington Department of Ecology v. Environmental Protection Agency* (1985). As the court pointed out, this did not leave a regulatory void because the federal hazardous waste regulatory program remained in place within reservations.

In 1984 the EPA formally adopted the "Policy for the Administration of Environmental Programs on Indian Lands." This policy acknowledges a "government-to-government" relationship between the EPA and each tribe; recognizes tribes as the "primary parties" for setting standards, making policy decisions, and managing programs within reservations; acknowledges the federal trust responsibility; and pledges the EPA to working to change provisions in federal statutes and regulations that hinder the agency from working with tribes in a manner consistent with their sovereign status. The EPA was the first federal agency to adopt a formal policy on its relations with Indian tribes, a practice which has since been followed by numerous other agencies.

Treatment of Tribes in the Same Manner as States

Beginning in 1986, Congress enacted amendments to several of the environmental regulatory statutes to treat tribal governments like states. Affected acts included the Safe Drinking Water Act; the Clean Water Act; the Clean Air Act; and the Comprehensive Environmental Response, Compensation, and Liability Act. These statutory amendments use the term "treatment as states" (TAS), although the EPA uses the term "treatment in the same manner as states." To date, most of the actual involvement of tribes in implementing federal statutes has occurred in setting water quality standards (WQS) under the Clean Water Act, for which TAS provisions were enacted in 1987. The rulemaking process took several years for the EPA to complete, and by the mid-1990s, a number of tribes had applied to the agency under the WQS program. For several of these tribes, the EPA's decision to approve their application ended up in court, and the courts consistently upheld the agency's decisions. In *City of Albuquerque* (1996), the federal district court and Tenth Circuit Court of Appeals both upheld the EPA's

approval of the WQS set by Isleta Pueblo for the Rio Grande, which required Albuquerque to upgrade its waste water treatment plant that discharges into the Rio Grande upstream of the Pueblo. The Isleta WQS, which are more strict than necessary for EPA approval, were designed, in part, to allow for the performance of tribal religious ceremonies in the river. In *Montana v. Environmental Protection Agency* (1998), the federal courts upheld the EPA's decision approving the Confederated Salish and Kootenai Tribes for TAS to set water quality standards for all surface waters within their reservation, including those on, and adjacent to, privately owned lands. In this case, the EPA had required the tribe to show that it still possessed inherent sovereignty over lands that had passed out of trust status as a result of laws enacted during the allotment era of federal Indian law. In *Wisconsin v. Environmental Protection Agency* (2001), the courts upheld the EPA's approval of the Sokaogon Chippewa Community's WQS designed to protect wild rice, which ultimately resulted in the abandonment of a proposal for a large-scale mine upstream of the community's reservation.

In its regulations implementing TAS for the Clean Water Act, the EPA has required tribes to show that they possess sufficient inherent sovereignty to carry out water quality regulatory programs. This requirement corresponds to a series of rulings by the U.S. Supreme Court, beginning with *Montana v. United States* in 1981, in which the Court ruled that inherent tribal sovereignty generally does not extend to the conduct of nonmembers of the tribe on nontrust lands, but that there are exceptions to this general principle. As a practical matter, the EPA's requirement means that if there are nontrust lands within a tribe's reservation, the tribe must demonstrate, to the satisfaction of the agency, that regulating conduct affecting surface waters not on trust lands is justified in order to protect the health and welfare of tribal members.

Under the Supreme Court's rulings, tribes can also exercise federal power delegated to them by Congress. In its regulations implementing the TAS provisions of the Clean Air Act, the EPA interpreted the act as a delegation by Congress of federal authority to tribes to regulate all sources of air pollution within their reservations. This interpretation was upheld by the Federal Court of Appeals for the D.C. Circuit in *Arizona Public Service Co. v. Environmental Protection Agency* in 2000. This means that tribes do not have to prove inherent tribal sovereignty to be treated like states for Clean Air Act programs.

The number of tribal programs under the Clean Water Act and Clean Air Act has grown over the years, but many

tribes still have not taken on regulatory roles pursuant to the federal statutes. In addition, not all of the federal environmental statutes authorize the EPA to treat tribes like states, and there are other gaps in the environmental protection framework. For the most part, on reservations where tribes do not have TAS status, the EPA remains responsible for environmental regulatory programs. In response to the range of challenges that arise, the agency has created an approach called a Direct Implementation Tribal Cooperative Agreement. Under such agreements, the environmental programs on reservations are carried out by tribal government agencies that exercise federal authority.

Other Federal Environmental Laws

The body of federal environmental law includes a number of statutes for which the EPA is not the lead agency. One example is the National Environmental Policy Act (NEPA), which applies to all federal agencies and requires the preparation of an environmental impact statement (EIS) prior to any proposed major federal action significantly affecting the quality of the human environment. Because approval of the Bureau of Indian Affairs (BIA) is required for many kinds of transactions involving Indian trust land, NEPA often applies to proposed development projects within Indian reservations. In the self-determination era, in which tribal governments have taken over many of the programs that were formerly conducted by the BIA, tribal agencies now play leading and supporting roles in NEPA compliance, including the preparation of environmental assessments, a less-detailed kind of NEPA document that is used to determine whether or not an EIS is required. Tribes are increasingly involved in all aspects of the NEPA process, from participation in the preparation of EISs as cooperating agencies to bringing lawsuits challenging federal agencies for alleged shortcomings in their compliance with NEPA.

Like NEPA, the National Historic Preservation Act (NHPA) applies to proposed actions of federal agencies. The NHPA includes an environmental review and consultation process intended to ensure that federal agencies take into consideration the effects of their actions on properties that are listed on, or eligible for, the National Register of Historic Places. This process is overseen by the Advisory Council on Historic Preservation, an independent federal agency, and includes a prominent role for state historic preservation officers (SHPOs). As amended in 1992, tribes can establish tribal historic preservation officers (THPOs), and as of May 2008 some seventy-six such officers had been

approved by the secretary of the interior. The 1992 amendments also provide that tribes (and Native Hawaiian organizations) have a right to become consulting parties when a proposed federal undertaking would affect a historic property to which they attach religious and cultural significance.

Another federal statute in which many tribes have been involved is the Endangered Species Act. Some tribes have used this law to force federal agencies to change their practices to lessen impacts on culturally important wildlife species. In 1997 the secretaries of the interior and commerce issued Joint Secretarial Order 3206 on "American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act," which seeks to reconcile the federal and tribal interests that sometimes come into conflict.

Given the importance of the environment for the survival of tribal cultures, the involvement of American Indians and Alaska Natives in the implementation of the full range of federal environmental laws can be expected to grow as the tribes become increasingly experienced in their governmental capacities. Tribal governments in the twenty-first century are establishing environmental programs that embody their cultural values, which are rooted in respect for the natural world.

See also *Dams and Hydroelectric Power; Fishing, Hunting, and Gathering Rights; Forestry; Mining and Mineral Rights; Oil and Gas; Ranch Management; Sacred Sites; Salmon; Self-Determination; U.S. Indian Policy: Congress and the Executive, 1960– ; Water Rights; Whaling.*

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BIBLIOGRAPHY

- Clinton, Robert N., Carol E. Goldberg, and Rebecca Tsosie. *American Indian Law: Native Nations and the Federal System: Cases and Materials*. 4th ed. Dayton, Ohio: LexisNexis, 2003.
- Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005.
- Coursen, David F. "Tribes as States: Indian Tribal Authority to Regulate and Enforce Federal Environmental Law and Regulations." *Environmental Law Reporter*, vol. 23 (October, 1993): 10, 579.
- Duthu, N. Bruce. *American Indians and the Law*. New York: Viking Adult, 2008.
- Getches, David H., Charles F. Wilkinson, and Robert A. Williams. *Federal Indian Law: Cases and Materials*. 5th ed. Eagan, Minn.: Thompson West, 2005.
- Grijalva, James. "The Origin of EPA's Indian Program." *Kansas Journal of Law and Public Policy*, vol. 15 (2006): 191–294.
- Rodgers, William H., Jr. *Environmental Law in Indian Country*. Eagan, Minn.: Thompson West, 2005.
- . "Tribal Government Roles in Environmental Federalism." *Natural Resources and Environment*, vol. 21, no. 3 (Winter 2007): 3–8.

Royster, Judith V., and Michael C. Blumm. *Native American Natural Resources Law: Cases and Materials*. 2nd ed. Durham, N.C.: Carolina Academic Press, 2008.

Suagee, Dean B. "Indian Country Environmental Law." In *Environmental Law Practice Guide*, edited by Michael B. Gerrard, 15A-1-15A-140. New York: Matthew Bender, 2004.

———. "The Supreme Court's 'Whack-a-Mole' Game Theory in Federal Indian Law, a Theory that Has No Place in the Realm of Environmental Law." *Great Plains National Resource Journal*, vol. 7 (2002): 164-166.

Wilkinson, Charles. *Indians, Time, and the Law: Native Societies in a Modern Constitutional Democracy*. New Haven, Conn.: Yale University Press, 1988.

Suzuki, David, and Peter Knudtson. *Wisdom of the Elders: Sacred Native Stories of Nature*. New York: Bantam Books, 1993.

Equal Footing Doctrine

The Equal Footing Doctrine, written into the 1787 Northwest Ordinance, described the process for the admission of new states into the Union, as well as setting the boundaries of federal and state powers. While the doctrine guaranteed that new states would be admitted on "equal footing with the original States in all respects whatever" and granted the rights of sovereign states, the federal government retained power and authority over Native American issues. The prevailing legal thought, established through such cases as *Worcester v. Georgia* (1832), has been that the federal government supersedes state powers in issues concerning Native Americans. Also, despite the equality afforded to the states under the doctrine, courts have consistently held that with only a few exceptions, new states are obliged to honor treaty arrangements with tribes regardless of the fact that the original thirteen states did not always do so.

Among the exceptions the U.S. Supreme Court has made to the Equal Footing Doctrine are those relating to activities on non-Indian reservations and navigable waterways. In *United States v. McBratney* (1881) the Court held that Colorado possessed criminal jurisdiction over a case when a non-Indian killed another non-Indian on a reservation, noting that the relevant treaty did not provide for federal or Native jurisdiction over crimes involving non-Indians. In *Choctaw Nation v. Oklahoma* (1970) and *Idaho v. United States* (2001), the Court ruled that waterway rights should lie with Native American tribes, often on the basis of treaties or evidence of original title. But in *Montana v. United States* (1981), it held that the Crow tribe was not the rightful owner of the Big Horn riverbed because the treaty creating the reservation did not express ownership rights in "clear and especial"

wording over the waterway, even though the river lay within reservation boundaries.

See also *Northwest Ordinance*; *Worcester v. Georgia* (1832); *Treaty Abrogation*.

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BIBLIOGRAPHY

Choctaw Nation v. Oklahoma, 397 U.S. 620 (1970).

Idaho v. United States, 533 U.S. 262 (2001).

McCorquodale, Scott M. "Historical and Contemporary Policies Regarding Off-Reservation Hunting by Native Americans." *Wildlife Society Bulletin*, vol. 27, no. 2 (Summer 1999): 446-455.

Montana v. United States, 450 U.S. 544 (1981).

United States v. McBratney, 104 U.S. 621 (1881).

Wilkins, David E. "Tribal-State Affairs: American States as 'Disclaiming Sovereigns'." *Publius*, vol. 28, no. 4 (Autumn 1998): 55-81.

Equal Protection

Equal Protection clauses prohibit governments from treating people differently based upon factors such as race, religion, or gender. The U.S. Constitution's Fourteenth Amendment and similar clauses in state constitutions prohibit states from denying equal protection of "the laws," while the Fifth Amendment's due process clause prohibits the federal government from "invidiously" (unfairly) discriminating. Similarly, the Indian Civil Rights Act (ICRA) of 1968 prohibits tribes from denying anyone equal protection under tribal laws. Some tribal constitutions also require equal treatment of tribal members, at least to some extent.

Generally, racial and religious classifications imposed by federal or state governments are subject to strict judicial scrutiny and upheld only if seen by the courts as narrowly tailored to further compelling governmental interests. The Supreme Court approved narrowly tailored racial admissions preferences (including for Native Americans) to further a law school's interest in a diverse student body in *Gutter v. Bollinger* (2003), while rejecting point-based racial preferences for undergraduate admissions at the same university in *Gratz v. Bollinger* (2003).

Victims of a state's forbidden racial, religious, or gender discrimination in voting, employment, education, public accommodations, or public facilities can usually sue for relief under the Civil Rights Act of 1964, although federal and tribal governments are exempt from its employment provisions. In approving hiring preferences for Indians at the Bureau of Indian Affairs in *Morton v. Mancari* (1974), the Supreme Court said that tribal membership is a political

classification rather than a racial classification for equal protection purposes, and that it would approve Indian preference laws if “the special treatment can be tied rationally to the fulfillment of Congress’ unique obligation toward the Indians.”

See also *Indian Civil Rights Act*; *Morton v. Mancari* (1974).

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BIBLIOGRAPHY

- Cristofferson, Carla. “Tribal Courts’ Failure to Protect Native American Women.” *Yale Law Journal*, vol. 101 (1991): 169–185.
- Newton, Nell Jessup. “Tribal Court Praxis: One Year in the Life of Twenty Indian Tribal Courts.” *American Indian Law Review*, vol. 22 (1998): 299–353.
- Rusco, Elmer R. “Civil Liberties Guarantees Under Tribal Law: A Survey of Civil Rights Provisions in Tribal Constitutions.” *American Indian Law Review*, vol. 14 (1988–1989): 269–299.

Ethnology

See *Anthropology and Ethnology*.

Ex Parte Crow Dog (1883)

The decision *Ex Parte Crow Dog* was handed down by the U.S. Supreme Court in December 1883. The case reversed the 1881 murder conviction and death sentence of Crow Dog (Kan-gi-shun-ka), a Brule Sioux, for the killing of Spotted Tail (Sin-ta-ga-le-Scka), his chief on the Rosebud reservation in Dakota Territory. The Court stated that the Brule retained some measure of tribal sovereignty and, as an attribute of that sovereignty, Brule law, rather than United States law, was the law of their reservation. Accordingly, Crow Dog argued, he could not be tried in a U.S. court.

The opinion was unanimous and had far-reaching consequences. On its face, it recognized broad sovereign powers of the hundreds of Indian nations, still the law even as America expanded into the last arable land in the West. It also recognized that a form of legal dualism existed in the United States, with hundreds of thousands of Indians on their reservations under tribal law while all others, including Indians off reservations, were under U.S. law. And the opinion was reached in the face of an expansive assimilationist policy being aggressively promoted by the U.S. government against the sovereignty of the various Indian nations.

At immediate issue was an interpretation of two Sioux treaties, which the U.S. government argued limited Brule sovereignty. One treaty had standard language providing that

if “bad men among the Indians shall commit a wrong . . . the Indians agree to deliver up the wrong-doers to the United States.” But the Court found parallel language requiring the United States to punish “bad men” who committed wrongs against Indians. The treaty, in reality, required nothing less than mutual extradition, in effect recognizing the tribes as sovereign and having their own law. A subsequent treaty (1877) provided that “Congress shall secure to them (Brule) an orderly government; they shall be subject to the laws of the United States,” but again, the Supreme Court held that, in the context of the history of United States–Indian relations, this meant that the United States intended to protect the Indian nations as they moved toward “civilization.” This treaty language did not change the fundamental status of the Indian nations as distinct nations operating both within and “under the protection” of the United States government.

There was a considerable reaction to the *Crow Dog* decision within the U.S. government, for it undermined its assimilationist Indian policy. Moreover, Crow Dog, a member of a traditional Brule faction opposed to accommodation with the United States, had killed Spotted Tail, who was involved in ongoing negotiations with the United States and was a recognized chief residing in a house not far from the Indian agency. This kind of intratribal conflict, an outgrowth of differences within the Indian nations over their own strategies of dealing with American incursions on their lands, was seen as especially dangerous in the immediate aftermath of the Sioux wars, which had ended in the previous decade (1876).

Although not the last of the great “sovereignty” line of cases stemming from the holding of Chief Justice John Marshall in *Cherokee Nation v. Georgia* (1831) that the Indian nations were “domestic dependent nations” recognized politically as distinct nations, *Crow Dog* was an important event, setting the stage for increased legal and political attacks on tribal sovereignty by the U.S. government, including the passage of the Major Crimes Act in 1885.

Although the Supreme Court upheld Brule sovereignty, the opinion is filled with paternalistic and condescending terms, describing Indians as “uncivilized” and characterizing Brule law as “red man’s revenge.” In actuality, Brule law was complex, emphasizing the restoration of kinship and harmony in a society based on hunting. The relatives of Crow Dog and Spotted Tail had met, discussed the killing, and settled the matter under tribal law for \$600 in cash, eight horses, and one blanket. Crow Dog, after his release from prison, announced that the white man’s law was inferior to Brule

law, moved to a far corner of the reservation, resisted the allotment of Brule land, and led a traditional faction that still exists. He died at age seventy-five in 1911. *Crow Dog* remains the law; the Indian nations retain criminal jurisdiction over their own people, limited only by the Major Crimes Act.

See also *Cherokee Nation v. Georgia* (1831); *Law Enforcement in Indian Country*; *Sovereignty*.

Sidney Harring

BIBLIOGRAPHY

- Ex Parte Crow Dog*, 109 U.S. 556 (1883).
 Garrow, Carrie E., and Sarah Deer. *Tribal Criminal Law and Procedure*. Walnut Creek, Calif.: Alta Mira Press, 2004.
 Harring, Sidney L. *Crow Dog's Case: American Indian Sovereignty, Tribal Law, and United States Law in the Nineteenth Century*. New York: Cambridge University Press, 1994.
 Hoxie, Frederick E. *A Final Promise: The Campaign to Assimilate the Indians, 1880–1920*. Lincoln: University of Nebraska Press, 1984.
 Hyde, George. *Spotted Tail's Folk: A History of the Brule Sioux*. Norman: University of Oklahoma Press, 1961.
 McLeod, William Christie. "Police and Punishment among Native Americans of the Plains." *Journal of Criminal Law, Criminology, and Police Science*, vol. 28, no. 2 (1937): 181–201.

Exhaustion Doctrine

When a non-Indian is named as a defendant in a civil lawsuit filed in a tribal court, the tribal court must determine that the non-Indian is within the court's jurisdiction or authority. Several lawsuits filed with non-Indians as defendants have resulted in those defendants seeking to remove cases from the tribal court's authority to U.S. federal courts. In response to such requests, the U.S. Supreme Court has in a series of decisions created the "tribal exhaustion doctrine." This doctrine requires federal courts to stay their hands until the plaintiff exhausts all levels of tribal remedies.

In the case *National Farmers Union Ins. Co. v. Crow Tribe* (1985), the Court stated that the question of whether a tribal court has jurisdiction over a non-Indian is a federal one, and that federal courts *are* permitted to hear those cases, but only after all tribal court proceedings, including appeals, are concluded.

Normally, federal courts are limited to jurisdiction as set forth by federal law, but there is no federal law granting them jurisdiction over tribal courts. Under title 28, section 1331 of the United States Code (28 U.S.C. §1331), federal courts have jurisdiction over actions that arise under the Constitution or any U.S. laws or treaties. By the reasoning in the *National Farmers Union* case, the Court has found the basis for federal court jurisdiction over tribal court cases to

be in federal common law, which is the law created by federal court decisions rather than expressly authorized by 28 U.S.C. § 1331.

This type of federal jurisdiction and the tribal exhaustion doctrine are somewhat controversial due to the idea that federal jurisdiction has been found by federal courts when a non-Indian party simply questions a tribal court's authority to hear a case. One may critically view the tribal exhaustion doctrine as placing tribal courts into administrative fact-finding roles where the case will be eventually removed to a federal court that will decide its outcome. Another view of the tribal exhaustion doctrine is that federal courts are showing deference to tribal courts in allowing a case involving a non-Indian party to proceed first through all levels of the tribal court system.

In a subsequent case, *Iowa Mutual v. LaPlante* (1987), the Court held that in federal diversity cases, which require that the parties to the case are from different states and must meet a threshold monetary amount in the lawsuit, the tribal exhaustion doctrine still applies for removal of a case from a tribal court to a U.S. federal court.

Angelique EagleWoman
 (Wambdi A. WasteWin)

BIBLIOGRAPHY

- Duck, Aaron S. "Indians: Modern Tribal Court Jurisdiction Over Non-Indian Parties: The Supreme Court Takes Another Bite Out of Tribal Sovereignty In *Strate v. A-1 Contractors*." *Oklahoma Law Review*, vol. 51 (1998): 727–746.
Iowa Mutual v. LaPlante, 480 U.S. 9 (1987).
National Farmers Union Ins. Co. v. Crow Tribe, 471 U.S. 845 (1985).
 Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005.
Strate v. A-1 Contractors, 520 U.S. 438 (1997).
 Wastewin, Wambdi A. "*Strate v. A-1 Contractors*: Intrusion into the Sovereign Domain of Native Nations." *North Dakota Law Review*, vol. 74, no. 4 (1998): 711–736.

Extension Laws

Extension laws are attempts by states to exercise jurisdiction over Indian affairs. Where permitted to stand, legislative extension challenges the principle of retained tribal sovereignty. The possibility of extension laws demonstrates the fluctuating and insecure position Indian rights have historically occupied in the United States.

In a classic confrontation from the early nineteenth century, the state of Georgia and the Cherokee Nation tested their relative sovereignty. In the 1820s Georgia, in attempting to drive the Cherokees out of the state, sought to extend

its control over the lands within the northwest corner of the state. This territory had historically been claimed by the Cherokee Nation, and the borders of its domain had been acknowledged by the United States in the treaties of Hopewell (1785) and Holston (1790). The tribe responded in 1827, declaring that it was an independent republic, complete with a constitution, a National Council, and courts. Georgia's answer was a series of laws extending its jurisdiction over the Cherokee Nation in the most complete sense—denying the tribe's sovereignty, nullifying its laws, taking its lands, and imposing state authority over its affairs. With these extension laws, the state hoped to drive the tribe westward.

The Cherokees tested Georgia's extension laws in three famous cases. In *Georgia v. Tassels* (1830), the state mooted the tribe's challenge of Georgia's authority to convict a Cherokee for murder by executing the defendant before the U.S. Supreme Court could hear an appeal. In *Cherokee Nation v. Georgia* (1831), in which the tribe asked the Court to enjoin enforcement of Georgia's extension laws within its territories, the Court dismissed the case because it lacked original jurisdiction over the Cherokees. In *Worcester v. Georgia* (1832), however, the Court struck down Georgia's law requiring state permission for a white missionary to live among the Cherokees and included broad language denying legitimacy to Georgia's extension laws and strongly supporting tribal sovereignty.

Openly contemptuous of the Court's decision in *Worcester*, the state did not enforce it. Georgia, in effect, nullified the ruling and continued to extend its jurisdiction over the Cherokees. Six years later, the Cherokees were exiled from their land and compelled to travel the Trail of Tears to the Indian Territory. Throughout this era, Georgia and the

states of Alabama, Mississippi, and Tennessee built a strong and useful legal foundation for legislative extension. These states rehearsed and refined arguments regarding their power to extend their jurisdiction over Indians and to counter federal Indian policy that they would, within a few years, employ to justify secession.

The language of *Worcester* survived and supported the principle of retained tribal sovereignty, seemingly creating very little room for extension laws. But as non-Indians expanded westward, states persisted in passing these laws. According to one scholar, every state east of the Mississippi River except for Minnesota attempted to extend its criminal laws over the Native people within their borders. Sometimes, extension laws were challenged in court, but if not, the laws, and the actions taken under them, controlled events. The federal government has itself legislated the extension of state authority over Indian affairs—for instance, in Public Law 280, passed in 1953. Extension laws are one more example of the many challenges to their sovereignty Indians have faced in the American federal system. Where legislative extension is permitted to stand, state authority diminishes—and can even extinguish—tribal sovereignty.

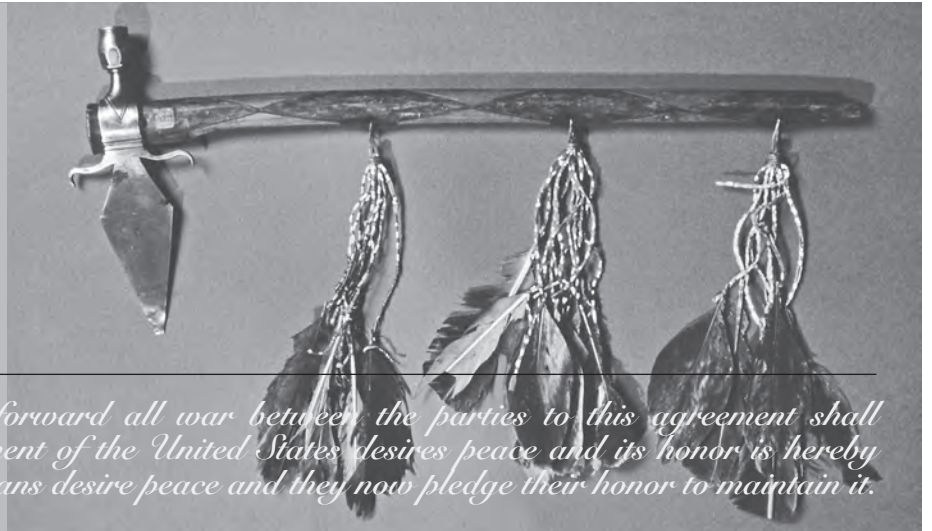
See also *Cherokee Nation v. Georgia* (1831); *Hopewell* (1785–1786), *Treaties of*; *Public Law 280*; *Removal*; *Sovereignty*; *Worcester v. Georgia* (1832).

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BIBLIOGRAPHY

- Garrison, Tim Alan. *The Legal Ideology of Removal: The Southern Judiciary and the Sovereignty of Native American Nations*. Athens: University of Georgia Press, 2002.
- Harring, Sidney L. *Crow Dog's Case: American Indian Sovereignty, Tribal Law, and United States Law in the Nineteenth Century*. Cambridge: Cambridge University Press, 1994.

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Article 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they now pledge their honor to maintain it.

Factory System

At the request of President George Washington, in 1795 Congress enacted into law the federal factory system, which was a chain of trading posts that the government operated across the Indian frontier. Congress used these factories to exercise its power over Indian affairs and to monopolize all trade and commercial relationships with the Indian nations. President Washington's hope in creating the factory system was that shopping at federal trading posts would bind Indians and their tribes to the United States, and that the problems that dishonest private traders had so often caused for the English and Americans in the past could be avoided. The factories were not designed to make a profit for the federal government, but were operated at cost merely to maintain the original amount of money Congress appropriated to start the program. Congress repeatedly reauthorized the system at the suggestion of Washington and later presidents.

Many Indians were happy to have a steady source of trade goods. They often supported a trading post by offering protection and providing food to keep it open. Several treaties between the U.S. government and various Indian nations even required the United States to build a trading post within the tribe's territory.

President Thomas Jefferson was a strong advocate for expanding the federal trading program to exclude private traders from the Indian trade and for controlling and befriending the Indian nations through trade and commerce. But Jefferson also instructed agents to use the trading posts to lure Indians into debt so that the Indians would be inclined to sell off tribal lands to pay what they owed—a plan that met with some success.

Ultimately, the federal government operated twenty-eight federal factories or trading posts across the western frontier from 1795 to 1822. However, complaints regarding the federal program persisted throughout the decades, coming primarily from private commercial interests, including the American Fur Company, that wanted to earn profits from the Indian trade. These objections led Congress to terminate the federal factory system in 1822.

See also *American Fur Company*; Jefferson, Thomas; *Trade and Intercourse Acts*; *U.S. Indian Policy: Congress and the Executive, 1775–1803*; Washington, George.

Robert J. Miller

BIBLIOGRAPHY

- Miller, Robert J. *Native America, Discovered and Conquered: Thomas Jefferson, Lewis & Clark, and Manifest Destiny*. Westport, Conn. & London: Praeger Publishers, 2006.
- Peake, Ora Brooks. *A History of the United States Indian Factory System 1795–1822*. Denver, Colo.: Alan Swallow, 1954.
- Prucha, Francis Paul. *American Indian Policy in the Formative Years: The Trade and Intercourse Acts, 1790–1834*. Cambridge, Mass.: Harvard University Press, 1962.

Fall, Albert B.

As secretary of the interior under President Warren G. Harding from 1921 to 1923, Albert B. Fall (1861–1944) is best known for his role in the Teapot Dome oil reserves scandal, which eventually forced his resignation and led to his conviction on conspiracy to accept bribes.

Fall was a strong proponent of Indian assimilationist policies and firmly opposed reformers who sought a less ethnocentric approach. In this, he was generally supported by the

staff of the Office of Indian Affairs (OIA). Fall tried to prohibit many Indian dances and religious ceremonies and advocated opening reservations to businesses seeking mineral and petroleum resources. In 1922 Fall backed a bill introduced into the Senate by Holm O. Bursum of New Mexico that sought to legitimize the land titles of white settlers who had bought land directly from the Pueblo tribes before New Mexico statehood. Indian rights advocates believed the bill unfairly put the burden of proof over questionable titles on the affected tribes. John Collier, later commissioner of Indian affairs, emerged as the leading opponent of the Bursum Bill. This fight eventually led to the adoption of the Pueblo Lands Act in 1924, which provided for legitimizing the titles of white land owners, but also provided compensation to the Pueblos for lost land and water rights. By that time, Fall had resigned from the interior department.

See also *Burke, Charles H.; Bursum Bill; Pueblo Lands Act.*

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BIBLIOGRAPHY

- Fall, Albert B. *The Memoirs of Albert B. Fall*. El Paso, Tex.: Texas Western, 1966.
- Kelly, Lawrence C. *The Assault on Assimilation: John Collier and the Origins of Indian Policy Reform*. Albuquerque: University of New Mexico Press, 1983.

Fallen Timbers (1794), Battle of

The Battle of Fallen Timbers took place along the Maumee River in Northwest Ohio on August 20, 1794. The Indian confederacy was led by the Miami chief Little Turtle and the Shawnee chief Blue Jacket and included most of the Indians of the Northwest Territory. They faced the American Legion commanded by General Anthony Wayne.

After the American Revolutionary War (1775–1783), the newly formed United States attempted unsuccessfully to negotiate land treaties with the Indians of the Northwest Territory. In 1789 Arthur St. Clair was charged with determining whether the Indians would remain defiant, and he advised President George Washington that the best course of action was to chastise the Indians with military force. The army sent two expeditions led by General Josiah Harmar (1790) and General Arthur St. Clair (1791) against the Indian confederacy. On both occasions, the Indians were victorious.

Washington then assigned General Anthony Wayne to lead a third military expedition against the Indian confederacy. Unlike the previous two missions, Wayne took the time

to train his troops, the American Legion, in Indian warfare. Throughout 1793 and 1794, the legion slowly advanced into the Northwest Territory, building forts for protection and supply depots along the way. After repulsing an Indian attack on Fort Recovery, the legion advanced towards the center of Indian resistance. After successfully overtaking the Indian villages at the Glaize, Wayne's army continued along the Maumee River toward the Indian encampments.

The Indians, noting the advancement, established a location for the upcoming battle about six miles from their camp at Swan Creek on ground littered with trees felled by a tornado. Arriving at Roche de Bout, an Indian council location along the Maumee River, Wayne stopped to build Fort Deposit on August 18, 1794. Expecting the Americans to attack that day, the Indians prepared for battle by eating no food, a common practice. The U.S. advance did not occur that day or the next. As a result, the morning of August 20 found many Indians in camp preparing food rather than anticipating battle. When Wayne's forces advanced, the Natives were surprised. The Indians rallied quickly only to be routed after the short forty-five-minute battle. The Indians hoped to regroup with aid from the British at Fort Miamis, but the gates were closed against them. The Native forces were demoralized.

The battlefield loss, combined with the deteriorating numbers in the Indian confederacy and the betrayal by the British, prompted the Indians to agree to the Treaty of Greenville (1795). The treaty established a line of settlement that opened two-thirds of the Ohio Country to American settlement. Wayne's negotiations initiated the treaty procedures that continued to move the Indians of the Northwest Territory westward and eventually across the Mississippi River.

See also *Greenville (1794), Treaty of; Little Turtle; Wayne, Anthony.*

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BIBLIOGRAPHY

- Downes, Randolph C. *Council Fires on the Upper Ohio: A Narrative of Indian Affairs in the Upper Ohio Valley until 1795*. Pittsburgh, Pa.: University of Pittsburgh Press, 1940.
- Sudgen, John. *Blue Jacket: Warrior of the Shawnees*. Lincoln: University of Nebraska Press, 2000.
- Sword, Wiley. *President Washington's Indian War: The Struggle for the Old Northwest, 1790–1795*. Norman: University of Oklahoma Press, 1985.

Fetterman Massacre (1866)

Known to the Plains Indians as the Battle of One Hundred Slain, the Fetterman Massacre was a decisive Lakota victory over the United States Army. The massacre was part of a larger conflict known as the Bozeman Trail War (1865–1868; sometimes called Red Cloud's War), a conflict that erupted over the military occupation of the Powder River region in northeastern Wyoming and southeastern Montana. To protect American gold seekers who were traveling to Montana via the Bozeman Trail, the U.S. Army established three forts in the prized hunting grounds of the Lakotas: Fort Phil Kearny, Fort C. F. Smith, and Fort Reno. Lakota leaders such as Red Cloud and Crazy Horse were determined to drive the Americans from their homeland. After a series of small skirmishes, the war climaxed with the Fetterman Massacre.

On December 21, 1866, Lt. Col. William J. Fetterman led a detachment of eighty men from Fort Phil Kearny to rescue a party of woodchoppers who were under attack. Fetterman ignored his orders not to pursue the Native American attackers and put his men in pursuit of a small party led by Crazy Horse. Crazy Horse led the unsuspecting military column into a ravine where concealed Lakotas pounced on them. Within an hour Fetterman and his entire command were dead.

The Fetterman Massacre played an important role in ending the Bozeman Trail War. The Treaty of Fort Laramie (1868) ended hostilities, and the military abandoned the three forts. Although only a temporary victory, the Fetterman Massacre was important to the Lakota, and 1866 was remembered as the year that “one hundred white men were killed.”

See also *Army, United States; Bozeman Trail War (1865–1868); Crazy Horse; Fort Laramie (1868), Treaty of; Red Cloud.*

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BIBLIOGRAPHY

- Bray, Kingsley M. *Crazy Horse: A Lakota Life*. Norman: University of Oklahoma Press, 2006.
- Brown, Dee. *Fort Phil Kearny: An American Saga*. New York: Putnam, 1962.
- Olson, James C. *Red Cloud and the Sioux Problem*. Lincoln: University of Nebraska Press, 1965.
- Ostler, Jeffrey. *The Plains Sioux and U.S. Colonialism from Lewis and Clark to Wounded Knee*. New York: Cambridge University Press, 2004.

Film

For many people in the United States, impressions of American Indians are more likely to be forged by images in books, newspapers, cartoons, and television rather than real-life encounters. Cinematic portrayals of Indians have emerged in the thousands of movies that comprise the landscape of Hollywood films, most typically in the genre of the Western.

A Western movie can provide an illustrative platform to examine the role of formal government policies and informal, unwritten policies that shape stories about the relationships between Indians and settlers. Note, however, that the stories unfolding in American movies often reflect fictional tales of invented Indians.

The Western

The history of Westerns follows a trajectory that has reflected U.S. policy and public sentiment on several fronts. For example, Westerns that were produced during the first and second world wars glorified American fighting forces by showing the U.S. cavalry battling “savage” Indian tribes. Westerns created during the social turmoil of the 1960s and 1970s, when civil rights, women's rights, American Indian rights, and the war in Vietnam occupied the sociopolitical stage, were more sympathetic to Native Americans. An apt illustration is the contrast of two period films: *They Died with Their Boots On* (1941) and *Little Big Man* (1970). *They Died with Their Boots On* featured Errol Flynn as Lt. Col. George Armstrong Custer, and portrayed him as sympathetic to the Sioux, which historian Alvin M. Josephy Jr. noted was completely fictitious. While the film depicts Custer as wanting to protect the Sioux's sacred Black Hills, Josephy wrote that Custer himself spread the rumor that gold was buried in the hills, thus setting the stage for battles over Lakota territory. In the film, Custer dies heroically on the battlefield, although Josephy noted no one knows how he died. In contrast, the 1970 movie *Little Big Man* portrays Custer as a buffoon who shoots children and women and wholly ignores warnings that countless Indians were ready to rally at Little Bighorn to protect their home. Custer leads the cavalry to its doom. While the 1941 film painted a picture of an heroic Custer, the 1970 film portrays a villainous fool.

Land as the Central Theme

Perhaps the most common theme that runs throughout Westerns is the portrayal of Indian and settler disputes over land. Many have sketched the settler occupancy of North

America against the backdrop of Manifest Destiny and the Frontier Thesis. Historian Francis Jennings wrote that colonization meant Indians were framed as “savage” in order for the settlers occupying the new territories to seem more “civilized”: a divine sanction that allowed the settlers to conquer the wilderness in the name of progress (often referred to as Manifest Destiny). Historian Frederick Jackson Turner, who had great influence in characterizing popular notions of the West, regarded the conquest of the American wilderness as liberty infused with progress—a concept known as the Frontier Thesis. The Western frontier meant to settlers the image of fertile, virgin, and unclaimed landscapes. Such landscapes promised what Henry Nash Smith considered a new-found “agrarian tradition” that propelled Americans to think of themselves as destined to claim the “agricultural interior of this continent” regardless of those who already occupied the land (Nash, *The American West As Symbol and Myth*, 1950).

Cinematic portrayals of such landscapes offer lush vistas of the East (*Last of the Mohicans* [1992] and *The New World* [2005]), expansive prairies of the Northern Midwest (*Dances with Wolves* [1990]), and the breathtaking mesas and canyons of the Southwest (*The Vanishing American* [1925]). Against these landscapes, Indian-settler relationships are infused with the notion that Indians are untamed, wild, and savage denizens (occupants) of the land, a characterization that served the U.S. policies that sanctioned the settler trespasses of the past.

Denizen Meets Citizen

Distinguishing the Indian as *denizen* and the settler as *citizen* illustrates a key difference between the two. “Denizen” stems from the French for “within” (*denz*) and Middle English (*denizeine*) for “inner part,” and refers to the person within the space—an inhabitant of “place.” Citizen, on the other hand, comes from the French word for city (*cit  *)—a formal collection of occupants: citizens. The Indian (*denizen*) emerges from place, which is all-defining, according to Native scholars Vine Deloria Jr. and Daniel R. Wildcat. Culture, power, values, beliefs, and identity are all drawn from place, and are inseparable from it. In contrast, the citizen defines place as property and commodity, which sets the settler’s definition of land above that of the denizen in the context of an economically defined homeland. As the modern conception of land became equated with civilization and progress, the indigenous view of land-as-place became marginalized as quaint and outmoded. Deloria and Wildcat, in their 2001 *Power and Place: Indian Education in America*,

argued that American legal institutions failed to grasp that “American Indian and Alaska native claims that some places on the planet possess a degree of sacredness that precludes treatment as real estate, private property, or public lands.”

The contested views of land between denizen and citizen permeate Westerns. In the 1993 film *Geronimo: An American Legend*, a prospector tells an Indian: “We make things out of this country—was nothing here before us and wouldn’t be nothing if we left it to you.” Settlers are seen as “bringing civilization” to the new world, and in the 1950 film *Broken Arrow*, a homesteader claims: “We’re bringing civilization here. Clothes. Carpets. Hats. Boots. Medicine . . . Whiskey.” Ironically Indians already had their own medicine and clothing, and had no need for carpets or whiskey. “Civilization” and Manifest Destiny would mean, for Indians, that their sacred homelands, essential to self, would be drastically reduced.

Raising the Specter of Morality

The idea of Manifest Destiny also allowed citizens to claim land on moral grounds. An example from *Northwest Passage* (1940) demonstrates this view. In one scene, Robert Rogers (played by Spencer Tracy) explains to his men that soldiers should expect to die and “have to take their chances.” Citizens, however, are portrayed as innocents: “But your folks on the border farms, they weren’t fighting anybody. They were clearing woods, and plowing and raising children, trying to make a home of it. And then one night Abenaki tomahawks hit the door. If it was over quick they were lucky.” In contrast, denizens get little sympathy, and when Rogers and his men find an Indian village, he says: “We’re under orders to wipe out this town so see that you do it. Kill every fighting Indian and kill them quick and kill them dead.”

Historian Francis Jennings noted that Indians were hunters and foragers who also sustained life by cultivating crops. But this reality failed to mesh with the settlers’ needs for the land, and the nomadic Native was invented. According to Jennings, settlers destroyed Indian farms and seized property, fueled by the false belief that the denizen roamed the land rather than inhabited it. Jennings noted in his 1976 *The Invasion of America: Indians, Colonialism, and the Cant of Conquest* that, “Property and liberty were synonyms in the seventeenth and eighteenth centuries. When the Indian was dispossessed of his land, he lost all hope of finding any niche in the society called civilized, except that of servant or slave.”

The notion of “civilization” justified the slaughter of the Indians, and mass media portrayals of denizens, from the dime store novel to the moving picture, relied on the image

of the bloodthirsty savage. Cinema served this ideology well, depicting the denizen as a vestige of prehistory, resistant to taming or nourishing the land in “appropriate” ways. Theodore Roosevelt echoed this view in his 1889 book, *The Winning of the West*: “The truth is the Indian never had any real title to the soil; they had not half so good a claim to it. . . . The settler and the pioneer have at bottom had justice on their side; this great continent could not have been kept as nothing but a game preserve for squalid savages.”

For Indians, morally and thematically, place equates to home and hearth. Policies imposed by the United States dramatically displaced Indians from their homelands, with millions of acres sold to or stolen by settlers, and thousands of denizens forced onto unfamiliar and barren reservations.

Roosevelt’s wild, unconquered West required taming, and Indians were often portrayed in mass media as woefully uncivilized. Early films in particular frame Indians as marauding bands attacking the stagecoach and wagon trains, whooping and hollering, and hacking away at some poor settler’s scalp. Some early films depicted Indian language by playing the soundtrack backward, insinuating that Native speech was gibberish. Most films limit the portrayal of denizens to a few Plains tribes (Lakotas, for example), ignoring the rich diversity of tribes from coast to coast, and thus painting a narrow and inaccurate portrait of the American Indian. Moreover, Native icons such as Geronimo, Crazy Horse, and Sitting Bull are shown as undisciplined adversaries unable to adapt to civilization, thus fueling the stereotype of the unreasonable savage. Rarely seen is the version of policy from the viewpoint of the Indian, who, cinematically, had to yield to the stagecoach, railroad, and homesteader.

The White Indian

While moving pictures often illustrate the common notion that denizens were stupid, backward, illiterate, and savage, some cinematic white men (and women) adopted the ways of Natives. James Fenimore Cooper (1789–1851), one of the most famous writers about the West, romanticized Indians both as noble and brutish, and appointed his action hero, Natty Bumppo, a settler-turned-Native. Bumppo is a white denizen with a moccasin in both worlds in the films *Last of the Mohicans* (1920, 1932, 1936, and 1992), *The Deerslayer* (1957), *The Pathfinder* (1952), and *Leatherstocking* (1924). Although white, he assumes the personage of an Indian.

The citizen thus embraced the ways of the denizen to tame and transform the wilderness, and, arguably, to assume for themselves idealized Indian characteristics. This is partic-

ularly apparent in *The Last of the Mohicans*, where the Euro-American character Hawkeye is clothed in pseudo-Indian attire such as fringed buckskin. Hawkeye embodies an image that fleshes out Turner’s thesis of the uniquely American experience—the citizen freed from his European shackles, conquering the new world and reinventing his persona by adopting Native ways.

Non-Native men and women in films have absorbed the denizen, creating an imitation Indian endowed with the citizen’s rights and privileges, but clothed in indigenous garb and able to float between two worlds. Professor Richard Slotkin called these counterfeits “Men Who Know Indians.” Several films feature at their center such white men who have adopted the Indian robe and mantle. The white soldier John Dunbar (portrayed by Kevin Costner) serves as the principal character in the award-winning film *Dances with Wolves*. Dunbar narrates the story of a white stranger who is eventually welcomed into the Lakota Sioux tribe, is the first to find the buffalo, and adopts a Native name and lifestyle. *Dances with Wolves* signaled the birth of a new breed: the white Indian. In the final scenes, when Dunbar and his white wife, who had been living with the Lakotas, leave their Indian community, his friend Ten Bears says: “I do not see a white soldier. I see only a Sioux named Dances with Wolves.” Similarly, white protagonists Jack Crabb (played by Dustin Hoffman) of *Little Big Man* and John Morgan (portrayed by Richard Harris) of *A Man Called Horse* (1970) embody Slotkin’s “Men Who Know Indians.” By becoming (pseudo) Indians, these white men embrace the culture, character, and language of their Native brethren. But in absorbing the Indian, the characters played by Costner, Hoffman, and Harris not only speak for the Indian, they are more eloquent in telling stories than the Indian could ever hope to be. In short, they have the power to name, define, and reframe what it means to be Indian. They displace and replace the Indian.

Native Assimilation in Film

While Western films focus on the relationship of denizen and citizen framed against property and place, a secondary theme of assimilation (a long-held government policy), coupled with the contradictory theme of isolationism, runs through many movies. *Tell Them Willie Boy Is Here* (1969) shows a pack of joyful Native youngsters attending classes run by a white superintendent, while the young Indian in *The Education of Little Tree* (1997) suffers at the hands of brute teachers when forced to attend boarding school. In the 1969 film, the Native children are content in their newly adopted

surroundings, while, twenty-eight years later in *Little Tree*, the child is shown as being abused under the cloak of assimilation. The Indian Nophaie in *The Vanishing American* tries to assimilate by embracing Christianity, and receives a powerful message when the Bible he had tucked into his shirt stops a bullet from killing him. In other films, Indians are assimilated cinematically by joining the U.S. armed forces, such as in *Devil's Doorway* (1950) and *Windtalkers* (2002). Such assimilation is typically temporary, with the hero dying (*The Vanishing American*) or returning to his tribe (*Windtalkers*). Audiences learn that assimilation through interracial coupling is generally deplored, as illustrated in *The Vanishing American*, *The Searchers* (1956), *Cheyenne Autumn* (1964), and *Last of the Mohicans*. The offspring—the so-called half-breeds and mixed-race children—suffer because of fractured identities and because they belong nowhere. The mixed-ancestry characters in *Thunderheart* (1992), *Smilla's Sense of Snow* (1997), and *Hidalgo* (2004) are loners and outsiders who fit in neither world, thus illustrating the prevailing message that cinematic Indians lost hearth and home.

Native Filmmakers Usher in a New Era

On balance, assimilation of Native Americans was a failure, according to the movies. Even when such issues are addressed by Indian writers and directors, such as Sherman Alexie in *The Business of Fancy Dancing* (2002), the protagonist is uncomfortable in both the city and on the reservation. Alexie's protagonist says: "Every time I sit down to write a new poem I want it *not* to be about the reservation. But the reservation won't let me go." Indian directors have tackled reservation life in such movies as *Skins* (2002) and *Smoke Signals* (1998), telling stories with a Native voice, but many modern films focus on relationships rather than government policies. For example, *Fast Runner* (*Atanarjuat*; [2001]) observes Inuit kinship within and across families, depicting jealousies and deadly feuds without any mention of the infusion of white settlers. *Johnnye Greyeyes* (2000) tells the story of a contemporary Indian woman and her lover in prison: a remarkable departure from the stereotyped roles of Native women in Westerns. Many Indian actors are mainstreamed into current films without fanfare: Gary Farmer plays a radio producer in *The Republic of Love* (2003), Eric Schweig is a cook in *Big Eden* (2000), Steve Reevis is a mechanic in *Fargo* (1996), and Elaine Miles plays a housekeeper in *Mad Love* (2001). The fact that they are Indians is merely a postscript.

Native writers and directors seem to prefer stories of everyday life, discarding the Western motifs and signaling an

important movement toward normalizing the onscreen Indian. Since Westerns often are narrated by the white male protagonist and reinforce policies of assimilation and isolation in the context of disputes over land and self-governance, they add to the legacy of tired, old stereotypes about American Indians. The entrance of Native storytellers into filmmaking promises an important shift in cinematic portrayals of American Indians.

See also *Assimilation and Acculturation*; Custer, George Armstrong; *Westward Migration*.

Cynthia-Lou Coleman

BIBLIOGRAPHY

- Churchill, Ward. *Fantasies of the Master Race*. Monroe, Maine: Common Courage Press, 1992.
- . *Struggle for the Land*. San Francisco, Calif.: City Lights Books, 2002.
- Coleman, Cynthia-Lou. "Framing Cinematic Indians within the Social Construction of Place." *American Studies*, vol. 46, no. 3–4 (2005): 275–294.
- Deloria, Vine, Jr., and Daniel R. Wildcat. *Power and Place: Indian Education in America*. Golden, Colo.: Fulcrum Resources, 2001.
- Jennings, Francis. *The Invasion of America: Indians, Colonialism, and the Cant of Conquest*. New York: W. W. Norton & Company, 1976.
- Kilpatrick, Jacquelyn. *Celluloid Indians: Native Americans and Film*. Lincoln: University of Nebraska Press, 1999.
- Mico, Ted, John Miller-Monzon, and David Rubel. *Past Imperfect: History According to the Movies*. New York: Henry Holt and Company, Inc., 1995.
- Rollins, Peter C., and John E. O'Connor. *Hollywood's Indian*. Lexington: University Press of Kentucky, 1998.
- Shively, JoEllen. "Cowboys and Indians: Perceptions of Western Films among American Indians and Anglos." *American Sociological Review*, vol. 57, no. 6 (1992): 752–734.
- Slotkin, Richard. *Gunfighter Nation: The Myth of the Frontier in Twentieth-Century America*. Norman: University of Oklahoma Press, 1998.
- Smith, Henry Nash. *The American West As Symbol and Myth*. Cambridge, Mass.: Harvard University Press, 1950.
- Stedman, Raymond William. *Shadows of the Indian: Stereotypes in American Culture*. Norman: University of Oklahoma Press, 1982.
- White, Richard, and Patricia N. Limerick. *The Frontier in American Culture*. Berkeley: University of California Press, 1994.
- Wright, Will. *Sixguns and Society*. Berkeley: University of California Press, 1975.

First Seminole War (1817–1818)

The First Seminole War was the initial battle in a series of three conflicts known collectively as the Seminole Wars, which were fought between the United States and Indian and former slave communities living in Florida. The first war began in 1817 and lasted less than a year.

The United States had long desired the Spanish colony of Florida. Events during the War of 1812 (1812–1814) only increased this interest. Britain and Spain both armed and traded with the Creeks and Seminoles in the northern areas of the state. The Seminoles, fearful of aggressive American expansion to their north, proved ready and willing allies. As a result, there were frequent skirmishes between Americans and Seminoles along the Georgia–Florida border. During the war, the British-backed Red Sticks, a militant revivalist faction of the Creek Nation, attacked American settlers, drawing the United States into the Creek Civil War (1813–1814). After U.S. forces under Andrew Jackson destroyed the Red Sticks at the Battle of Horseshoe Bend (March 27, 1814), thus effectively ending the Creek Civil War, many of the surviving Red Sticks fled to Florida.

Florida continued to serve as a harbor for escaped slaves during the War of 1812 as well. These former slaves, sometimes called Maroons, found asylum in the Spanish colony. When the British left Florida after the War of 1812, Maroons took over the British fort at Prospect Bluff. Americans referred to the garrison as the Negro Fort, and it served as an outpost for other runaways in the area.

The presence of hostile, ungovernable Indians and Maroons and continued British access to the peninsula convinced many U.S. leaders that the country's southern border would never be secure until Americans controlled Florida. Tensions remained high along the United States–Florida border following the end of the War of 1812, and in 1816 U.S. troops invaded Florida and destroyed the Negro Fort. In November of 1817 the American garrison at Fort Scott in southern Georgia argued with the nearby Mikasuki Seminole village of Fowltown over the right to chop firewood in disputed territory. The disagreement confirmed Seminole fears of further American expansion into their lands. When the Fort Scott garrison destroyed Fowltown, the Seminoles retaliated the following week by attacking a supply boat heading for the fort. The Scott Massacre—named for the boat's commander, R. W. Scott—marked the beginning of the First Seminole War.

Secretary of War John C. Calhoun ordered Andrew Jackson to invade Florida in response to the Scott Massacre. Accompanied by eight hundred regular army soldiers, two thousand volunteers from Tennessee and Georgia, and about 1,400 Creek allies, Jackson entered Florida in mid-March 1818. He constructed a new fort, Fort Gadsen, at the site of the old Negro Fort and used it as an early base of operations.

By the end of the month he had destroyed the two large Indian towns of Tallahassee and Miccosukkee.

However, retaliation against hostile Indians was not the only purpose for the invasion of Florida. Jackson—perhaps with the complicit support of President James Monroe—saw his campaign as the perfect opportunity to seize control of the state. From Fort Gadsen, Jackson marched to the Spanish fort at St. Marks, where he insisted that the Spanish garrison surrender to his forces. Jackson believed, wrongly, that many Indian and Maroon leaders were hiding in the fort, and he was convinced that the Spanish garrison could not be trusted to defend the fort against Indian attack. The Spanish commander refused to surrender, but Jackson easily took the fort.

In a series of further engagements from his new base of operations, Jackson destroyed Red Stick, Maroon, and Seminole strongholds throughout western Florida. However, many Indians and Maroons simply retreated into the swamps, out of Jackson's reach. Jackson was able to capture several prominent prisoners, including two British citizens—Alexander George Arbuthot, a Scottish trader, and Robert Armbrister, a former royal marine—both of whom Jackson blamed for arming and inciting hostile Indian groups. Jackson had both men executed.

With the power of the hostile communities temporarily broken, Jackson declared the First Seminole War over. However, before returning home, Jackson made one final march, this time to Pensacola, the capital of Spanish Florida. Upon arrival, he demanded the surrender of the city. When the governor refused, Jackson captured both the capital and the nearby fort. With the exception of St. Augustine, Jackson had now effectively ended Spanish control of Florida.

Though outraged by Jackson's actions, Spain realized that it did not have the power to regain Florida, and agreed to sell its colony to the United States in 1821. Two years later, the United States and Seminole leaders signed the Treaty of Moultrie Creek, in which the Seminoles relinquished all claims to the new United States territory in exchange for a reservation in central Florida. However, continued conflicts between Indians and white settlers in Florida eventually sparked the Second Seminole War, which lasted from 1835–1842.

See also *Calhoun, John C.; Creek Civil War (1813–1814); Jackson, Andrew; Monroe, James; Second Seminole War (1835–1842); Spain, Indian Policy of; War of 1812 (1812–1814).*

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BIBLIOGRAPHY

- Heidler, David Stephen, and Jeanne T. Heidler. *Old Hickory's War: Andrew Jackson and the Quest for Empire*. Baton Rouge: Louisiana State University Press, 2003.
- Knetsch, Joe. *Florida's Seminole Wars: 1817–1858*. Charleston, S.C.: Arcadia Publishing, 2003.
- Missal, John, and Mary Lou Missal. *The Seminole Wars: America's Longest Indian Conflict*. Gainesville: University of Florida Press, 2004.
- O'Brien, Sean Michael. In *Bitterness and Tears: Andrew Jackson's Destruction of the Creeks and Seminoles*. Westport, Conn.: Praeger Publishers, 2003.
- Remini, Robert V. *Andrew Jackson and His Indian Wars*. New York: Viking Penguin, 2001.

Fishing, Hunting, and Gathering Rights

For most indigenous peoples in North America, subsistence and trade has traditionally depended on regular and well-planned seasonal rounds of hunting, fishing, and gathering. Even among groups that developed agricultural practices or adopted the herding of livestock after European contact, wild foods enriched family diets and provided security against the failure of crops or the loss of livestock. After colonization, federal assimilation policies and ecological changes gradually undermined indigenous subsistence activities, yet they still occupy an important place in the economic, social, and spiritual lives of Native communities across the continent.

Many tribes expressly reserved the right to continue hunting, fishing, and gathering on ceded lands through treaties with the U.S. government. Since the late nineteenth century, however, bitter disputes have erupted regarding the exact nature and extent of Indian treaty rights. In some cases state authorities and private citizens have tried to limit or stop tribal hunting and fishing outside reservation boundaries. Indians have fought back with acts of civil disobedience, legal test cases, and endless appeals to the U.S. government. Although the government's support has been unreliable at best, federal courts have generally upheld treaty rights (with qualifications) since the early twentieth century. Tribes have also become co-managers of valuable natural resources, using their treaty rights to win a place in ongoing discussions of how to preserve species and ecosystems endangered by decades of environmental degradation.

Reserved Rights to Fish, Hunt, and Gather

The fishing, hunting, and gathering provisions in many treaties represented a significant concession to the demands

of Native negotiators. Although the federal government expected Indians to assimilate into American society, treaty commissioners recognized that tribal leaders would not sign papers that failed to protect their access to traditional subsistence resources and sites. Thus, in order to soften the shock of land cessions and ease the expected transition to Euro-American lifeways, many treaties explicitly secured Indian rights to hunt, fish, and/or gather on ceded lands. In 1789, for example, the Wyandot Treaty stated that “individuals of the said nation shall be at liberty to hunt within the territory ceded to the United States, without hindrance or molestation, so long as they demean themselves peaceably, and offer no injury or annoyance to any of the subjects or citizens of the said United States.” The 1837, 1842, and 1854 treaties with the Lake Superior Ojibwes guaranteed, “The privilege of hunting, fishing, and gathering the wild rice, upon the lands the rivers, and the lakes included in the territory ceded . . . during the pleasure of the United States.” After Congress unilaterally terminated formal treaty-making in 1871, executive orders, federal statutes, and congressional agreements occasionally secured Indian hunting, fishing, and gathering rights on ceded lands. By the end of the nineteenth century, however, Indians seeking to exercise these rights often had to contend with white competitors and state laws intended to conserve declining stocks of fish and game.

The resulting confrontations and court battles typically reflected the ambiguous and contested language of the treaties themselves, as well as differing cultural conceptions and uses of natural resources. The principles of treaty construction established by the U.S. Supreme Court (most notably in *U.S. v. Winans* in 1905) dictate that treaties must be interpreted as the Indians would have understood them at the time, that all doubtful or ambiguous terms must be resolved in favor of the Indians, and that treaties in general must be liberally construed to the benefit of the Indians. In practice, though, the courts have considered only clear-cut treaty or statutory language reserving off-reservation hunting, fishing, and gathering rights. Native oral traditions concerning treaties and treaty councils are typically dismissed as hearsay. For Indian negotiators more used to oral agreements than written ones, the accords consisted of everything said and solemnized at the councils, not merely the words written in the official documents. Decades later, descendants of treaty signers continued to relate stories of promises made but not recorded on paper. Most importantly, they insisted that their treaty rights had been reserved in perpetuity and free of non-Indian interference. As Yakama fishing rights



Indians fish on platforms over Celilo Falls on the Columbia River on the Oregon-Washington border in 1956. Tribes have often struggled with the federal government to gain fishing and hunting rights, especially in off-reservation areas.

activist David Sohapp Sr. was quoted as saying in Andrew H. Fisher's 1999 article, "This I Know from the Old People": Yakama Indian Treaty Rights as Oral Tradition," his ancestors understood that their 1855 treaty would endure "as long as that mountain stood there, as long as the sun rose in the east and long as the grass grows green in the spring and the rivers flow. To me, that meant forever, not to be abrogated or changed or done away with any other way. That's the way the old people talk."

States' Rights versus Tribal Sovereignty

The central issue in most state-tribal disputes has been the extent to which the states can regulate Indian treaty rights. Faced with dwindling fish and game populations, state governments began implementing conservation programs that openly favored non-Indian sport and commercial interests over Indian use. Although they were not primarily responsible for the depletion of the resources, Native Americans found their off-reservation subsistence activities increasingly constrained by a web of regulations governing illegal gear, trespassing, licensing, closed seasons, prohibited areas, catch limits, and the sale of game or fish. When Indians hunted or fished in violation of these laws—either knowingly or unknowingly—state authorities prosecuted them for poach-

ing. Many Indians also had their guns or gear confiscated, adding to the economic and cultural hardships posed by the inability to take fish and game for subsistence, ceremony, and sale. This assault on their treaty rights confounded traditional Indians and tribal leaders, who generally regarded their foods as sacred gifts from the Great Spirit, not the property of state governments representing alien intruders. As Chief Meninock of the Yakama Nation protested in 1915, "I was not brought from a foreign country and did not come here. I was put here by the Creator. We had no cattle, no hogs, no grain, only berries and roots and game and fish. We never thought we would be troubled about these things, and I tell my people, and I believe it, it is not wrong for us to get this food" (Fisher, "This I Know from the Old People," 1999).

In defense of their hunting and fishing rights, Indians generally argued that treaties signed with the U.S. government constituted the supreme law of the land and therefore superseded state laws. State courts typically dismissed the concept of reserved rights, however, while federal courts alternated views on the subject. In one of the first precedents it handed down, *Ward v. Race Horse* (1896), the U.S. Supreme Court held that Wyoming's game laws trumped Shoshone-Bannock treaty rights because of the Constitution's "equal footing" doctrine. According to this line of argument, Indian

treaties negotiated during the territorial period were implicitly abrogated (abolished) when a territory joined the Union with the all rights and powers of the existing states. In the Pacific Northwest, state courts also used the common treaty phrase “to fish . . . in common with the citizens of the Territory” to contend that Indians had only the same rights as non-Indians and thus were equally subject to state laws. Treaty tribes in Washington and Oregon repeatedly challenged this interpretation while also fighting to preserve access to their fisheries in the face of non-Indian enclosure efforts. Starting with *U.S. v. Winans*, which declared that treaties are “not a grant of rights to the Indians, but a grant of rights from them—a reservation of those not granted,” Northwest fishing rights cases reached the U.S. Supreme Court seven times during the twentieth century. On each occasion, the Court affirmed the validity of Indian treaty rights but failed to take away fully the states’ power to regulate them. State governments, in turn, continued to cite *Race Horse* and to prosecute Indians for hunting and fishing in violation of state regulations.

Decades of litigation climaxed in the “fish wars” of the 1960s and 1970s. Following a series of “fish-ins” and increasingly violent clashes with state authorities, the Justice Department filed suit on behalf of fourteen northwest treaty tribes. In *U.S. v. Washington* (1974), better known as the Boldt decision, federal district judge George Boldt held that the phrase “in common” guaranteed the tribes the right to harvest 50 percent of the allowable catch (later extended to shellfish) and to participate in management of the fisheries. Five years later, the Supreme Court affirmed Boldt’s ruling, and the Ojibwes and Ottawas of northern Michigan won recognition of their treaty rights in *U.S. v. Michigan*. In 1983 their relatives in Wisconsin scored an even greater victory with the U.S. Court of Appeals’ decision in *Lac Courte Oreilles Band v. Voigt*, which upheld the off-reservation fishing, hunting, and gathering rights of the Lake Superior Ojibwe. Although each of these decisions triggered a vicious anti-Indian backlash—aided and abetted by strong state attempts to obstruct and overturn them—the various interest groups involved have gradually moved away from litigation as a solution to the controversy. The resurgence of states’ rights and property rights ideologies within the federal judiciary keeps alive the possibility of Indian rights abolishment, but the present political climate emphasizes the negotiation of differences and the cooperative management of natural resources. Tribal organizations such as the Northwest Indian Fisheries Commission, the Columbia River Inter-Tribal

Fish Commission, and the Great Lakes Indian Fish and Wildlife Commission have become central to these efforts.

Current Criteria for State Regulation of Reserved Rights

The current criteria for state regulation of Indian treaty rights depend on the particular treaty or statute and the various federal, state, and tribal interests involved. Generally speaking, tribes may regulate on-reservation fishing, hunting, and gathering free from state interference. In some cases, however, tribal governments lack the authority to prevent non-Indians from hunting or fishing on reservation lands that are not owned by tribal members or the tribe itself. Furthermore, some federal conservation laws (such the Eagle Protection Act) supersede both on- and off-reservation treaty rights. State governments may only regulate Indian off-reservation hunting, fishing, and gathering when absolutely necessary for conservation or public safety. To justify such regulation, the state must demonstrate that a significant risk exists, that the state cannot meet its objectives by regulating non-Indians alone, and that the regulation represents the least restrictive option available. Poor environmental quality and dwindling stocks of fish and game pose the most serious threats to Indian treaty rights. In the Pacific Northwest, for example, salmon runs have declined dramatically due to decades of overfishing, hydroelectric development, habitat destruction, industrial pollution, and flawed hatchery policies. All of the great aboriginal fisheries on the Columbia River have been inundated by dams, while inter-tribal disputes over harvest allocation recently triggered a fresh wave of litigation on Puget Sound. Although Phase II of *U.S. v. Washington* affirmed the treaty tribes’ right to protection of the resource, powerful economic and political opposition has slowed the implementation of effective salmon recovery plans. Meanwhile, in the Great Lakes region, mercury contamination endangers the health of Indians and non-Indians alike.

Whatever the future may hold, it seems certain that American Indians will continue to fight for their treaty rights and the resources that sustain them. Although relatively few Native people in the United States (excluding Alaska) now depend on hunting, fishing, and gathering for subsistence, those activities have become powerful symbols of Indian identity. To those who still exercise them, treaty rights are integral to cultural and religious practices that define what it means to be a tribal person. Accordingly, many elders lament the fact that younger people often express little

interest in traditional hunting, fishing, and gathering practices. "Today it's hard to be an Indian person, and it's easy to be white," observed Edward James (Umatilla) in a 2005 interview for the *Confederated Umatilla Journal* during the tribe's recent sesquicentennial commemoration of its 1855 treaty. "If we don't hunt, fish, dig roots and pick berries then what are we? We're certainly not being *Natitayt* [Indian people]." To protect the "old ways," however, Native Americans have also developed the legal, political, and scientific expertise necessary to secure a place at the negotiating table. Contemporary tribal leaders understand that both traditional and modern forms of knowledge must be passed on to future generations. They also know that the battle to uphold their rights has not ended either in the court of law or in the court of public opinion. Having fought so hard to protect their hunting and fishing rights from non-Indian usurpation and state regulation, Indians must continue to fight to ensure that the resources do not disappear. After all, as Judge William Orrick noted in Phase II of *U.S. v. Washington*, "fifty percent of nothing is nothing."

See also *Eagle Protection Act*; *United States v. Washington* (1974); *United States v. Winans* (1905).

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BIBLIOGRAPHY

- Bentley, Shannon. "Indians' Right to Fish: The Background, Impact, and Legacy of *United States v. Washington*." *American Indian Law Review*, vol. 17 (Spring 1992): 1–35.
- Boxberger, Daniel L. *To Fish in Common: The Ethnohistory of Lummi Indian Salmon Fishing*. Lincoln: University of Nebraska Press, 1989.
- Cohen, Fay G. *Treaties on Trial: The Continuing Controversy over Northwest Fishing Rights*. Seattle: University of Washington Press, 1986.
- Danielsen, Karen C., and Jonathan H. Gilbert. "Ojibwe Off-Reservation Harvest of Wild Plants." In *Nontimber Forest Products in the United States*, edited by Eric T. Jones, Rebecca J. McLain, and James Weigand, 282–292. Lawrence: University of Kansas Press, 2002.
- DeMallie, Raymond J. "Touching the Pen: Plains Indian Treaty Councils in Ethnohistorical Perspective." In *Ethnicity in the Great Plains*, edited by Frederick C. Luebke, 38–51. Lincoln: University of Nebraska Press, 1980.
- Doherty, Robert. *Disputed Waters: Native Americans and the Great Lakes Fishery*. Lexington: The University Press of Kentucky, 1993.
- Dupris Joseph C., Kathleen S. Hill, and William H. Rodgers, Jr. *The Si'lailo Way: Indians, Salmon and Law on the Columbia River*. Durham, N.C.: Carolina Academic Press, 2006.
- Fisher, Andrew H. "'This I Know from the Old People': Yakama Indian Treaty Rights as Oral Tradition." *Montana: The Magazine of Western History*, vol. 49 (Spring 1999): 2–17.
- Goodman, Edmund Clay. "Indian Reserved Rights." In *Nontimber Forest Products in the United States*, edited by Eric T. Jones, Rebecca J. McLain, and James Weigand, 273–281. Lawrence: University of Kansas Press, 2002.
- "James Fears Loss of Tradition." *Confederated Umatilla Journal*, vol. 19 (May 2005): 18.
- Landau, Jack L. "Empty Victories: Indian Treaty Fishing Rights in the Pacific Northwest." *Environmental Law*, vol. 10 (1980): 413–456.
- Nesper, Larry. *The Walleye War: The Struggle for Ojibwe Treaty and Spearfishing Rights*. Lincoln: University of Nebraska Press, 2002.
- Satz, Ronald N. *Chippewa Treaty Rights: The Reserved Rights of Wisconsin's Chippewa Indians in Historical Perspective*. Eau Claire: Wisconsin Academy of Sciences, Arts and Letters, 1991.
- Ulrich, Roberta. *Empty Nets: Indians, Dams, and the Columbia River*. Corvallis: Oregon State University Press, 1999.
- Wilkins, David E. "Indian Treaty Rights: Sacred Entitlements or 'Temporary Privileges?'" *American Indian Culture and Research Journal*, vol. 20 (Spring 1996): 87–129.
- Wilkinson, Charles. *Blood Struggle: The Rise of Modern Indian Nations*. New York: W. W. Norton & Company, 2005.

Fitzpatrick, Thomas

Thomas Fitzpatrick (c. 1799–1854), also known as Broken Hand and White Hair, was appointed in 1846 to serve as the first Indian agent with the newly created Upper Platte and Arkansas Agency. Prior to his service, Fitzpatrick, an Irish immigrant, was a trapper and guide for pioneers Marcus Whitman, Pierre De Smet, and John C. Frémont.

Fitzpatrick's appointment as agent followed white encroachment into Native American territory and the federal government's recognition that it needed a mediator with the tribes in the region. He believed the ultimate survival of the Indian people would come only if they adopted the trade and agriculture of white people. He pressed for an end to the liquor trade with Natives, strong punishments for Native attacks on whites, military surveillance of commonly traveled routes, and forceful conquest of tribes that did not acculturate.

In his time as an agent, Fitzpatrick negotiated many treaties. He brokered peace with the Cheyenne and Arapaho tribes and kept them from allying with the Kiowas and Comanches. He was also instrumental in bringing about the 1851 Treaty of Fort Laramie, which guaranteed safe passage for white travelers through Indian territories and allowed for the construction of military forts. Two years later, Fitzpatrick negotiated with the Comanche, Kiowa, and Apache tribes that had refused to join the 1851 treaty. The resulting Fort Atkins Treaty ensured the right of the United States to build roads, military posts, and railway depots in Indian territories, while granting to Native Americans annuities and the right to retain assimilated Mexican captives among their tribes. When traveling to Washington, D.C., to negotiate details of this treaty with lawmakers, Fitzpatrick contracted pneumonia and died in 1854.

See also *Assimilation and Acculturation; Fort Laramie (1851), Treaty of.*

Kristin Teigen

BIBLIOGRAPHY

Hafen, LeRoy R. "Thomas Fitzpatrick and the First Indian Agency of the Upper Platte and Arkansas." *The Mississippi Valley Historical Review*, vol. 15, no. 3 (1928): 374–384.

———. *Broken Hand: The Life of Thomas Fitzpatrick, Mountain Man, Guide and Indian Agent*. Lincoln: University of Nebraska Press, 1973.

Fletcher, Alice Cunningham

Alice Cunningham Fletcher (1838–1923), a well-educated New Yorker, worked initially as a governess and then became involved in intellectual and social reform movements. She participated in women's clubs in the 1870s and served as secretary for the Association for the Advancement of Women. She became a traveling public lecturer, taking up the topic of ancient America. In 1879 she contacted Frederic Ward Putnam, curator of the Peabody Museum at Harvard. Putnam subsequently encouraged Fletcher to study archaeology at the museum, and she began an apprenticeship under Putnam in 1880.

In 1881 Fletcher traveled through Dakota Territory, observing Sioux culture with Sisseton La Flesche, an Omaha Indian whom Fletcher had originally met in 1879, and La Flesche's husband, Henry Tibbles. The experience launched Fletcher's transformation into an anthropologist. Fletcher also became acquainted with the Omaha tribe's effort to secure legal title to their lands, and she lobbied Congress on the tribe's behalf, resulting in 1882 Omaha allotment legislation. Subsequently, the Office of Indian Affairs recruited her to make allotment assignments to the Omaha, and after passage of the 1887 General Allotment (Dawes) Act, Fletcher was hired to allot the Nez Perce reservation. During this time, Fletcher urged Congress to modify the Dawes Act to provide allotments for married women, who received no land under the act's original terms. Congress passed an amendment in 1891 that accomplished this goal.

Fletcher continued her study of anthropology, including a successful research collaboration with Francis La Flesche that culminated in the 1911 publication of *The Omaha Tribe*.

See also *Allotment in Severalty; General Allotment Act (Dawes Act) of 1887; LaFlesche Family.*

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BIBLIOGRAPHY

Fletcher, Alice C., and Francis LaFlesche. *The Omaha Tribe*. Lincoln: University of Nebraska Press, 1972.

Gay, E. Jane, Frederick E. Hoxie, and Joan T. Mark. *With the Nez Percés: Alice Fletcher in the Field, 1889–1992*. Lincoln: University of Nebraska Press, 1987.

Mark, Joan T. *A Stranger in Her Native Land: Alice Fletcher and the American Indians*. Lincoln: University of Nebraska Press, 1989.

Forestry

Indian Country includes sixteen million acres of forestlands, spread across 214 reservations. Indian tribes have full beneficial ownership of these forestlands, which not only support timber economies, but also provide subsistence and medicinal plants, fish and wildlife, firewood, recreation, watershed integrity, and cultural resources. Sustainable management of these lands is therefore crucial.

Historically, the federal government has wielded a heavy hand in Indian forest management. Today, though, tribes are gaining their own management capabilities and assuming control of their forest resources, with oversight by the Bureau of Indian Affairs (BIA). Although the federal government has trust ownership of Indian land as part of its trust relationship with tribes, the Supreme Court in *White Mountain Apache Tribe v. Bracker* (1980) stated clearly that the United States must manage tribal forest resources exclusively for the "benefit of" the tribes.

Three primary statutes govern the majority of activities associated with forest management on tribal and allotted lands. The 1910 Indian Timber Act provides for the sale of timber on both Indian land allotted pursuant to the General Allotment Act of 1887 and unallotted Indian land. Section 7 of the act authorizes the secretary of the interior to sell timber on tribal trust land. Regulations passed under this section require tribal consent for such sales. Section 8 allows allottees to sell timber on allotted lands with the consent of the secretary.

The Indian Reorganization Act of 1934 requires the secretary of the interior to enact regulations for the operation of "Indian forestry units" in accordance with the principle of "sustained yield management." John Collier, the commissioner of Indian affairs from 1931 to 1945 and the principal author of the act, included this provision in response to BIA mismanagement and overcutting of Indian forests. The BIA enacted regulations in 1936 to require reforestation and restrict clear-cutting of large contiguous areas.

In 1990 Congress passed the National Indian Forest Resource Management Act (NIFRMA), a comprehensive law aimed at giving tribes a more active role in the management of their forests. The statute sets forth provisions on forest planning and administration, tribal forestry programs, and cooperative agreements and contracts between the federal government and the tribes. It also provides educational and technical assistance to tribes in developing forestry programs and capabilities.

Under self-determination and self-governance agreements pursuant to the Tribal Self-Governance Act of 1994, an increasing number of tribes have developed and implemented forestry programs. The success of tribal programs will depend in part on the adequacy of federal funding and technical assistance. As tribes assume a more substantial role in managing their forestlands, the federal role will shift from one of direct involvement to one of oversight.

In addition to encouraging greater tribal control of timber management, NIFRMA also specifically maintains the federal trust responsibility to the tribes.

Modern Indian Forest Management

Historically, the BIA emphasized commercial timber production, often eradicating complex forest ecosystems in favor of tree plantations that could provide maximum net growth and economic return. NIFRMA created a management framework designed to emphasize tribal values and sustainability. The act calls for developing forest management plans (FMPs) through full consultation with the tribe. Such plans must be consistent with an overall tribal integrated resource management plan, which coordinates the overall management of the tribe's natural resources. FMPs are subject to approval by the BIA, and the integrated resource management plan is subject to approval by both the BIA and the tribe. All timber harvests must be consistent with the forest plans approved by the BIA, and the secretary of the interior must comply with all tribal laws pertaining to Indian forestlands.

NIFRMA reinforced the sustained yield mandate of the Indian Reorganization Act by requiring management of forestlands "in a perpetually productive state in accordance with principles of sustained yield." The statute also broadened the traditionally narrow emphasis on timber output by defining "sustained yield" to support the continual production of "forest products" as a whole. In a departure from the traditional, singular emphasis on commercial timber, NIFRMA and its implementing regulations define "forest products" expansively to include many other forest resources, such as

fuelwood, nuts, berries, roots, mushrooms, herbs, Christmas trees, and "other marketable material." Sale of these forest products must receive both the consent of the secretary of the interior and authorization of the tribal government.

In a similar vein, the act expressly recognizes other forest values beyond timber output. It requires management of forestlands in their natural state when the tribe determines that the recreational, aesthetic, cultural, or traditional values of the lands represent "the highest and best use." Further, NIFRMA imposes management objectives to protect fisheries, wildlife, grazing, recreation, and aesthetic, cultural and traditional values, and to regulate water runoff, minimize soil erosion, and protect other ecosystem functions.

Application of General Environmental Laws

Although many environmental and historic preservation laws potentially affect Indian forest management, two of the most significant laws are the National Environmental Policy Act of 1969 (NEPA) and the Endangered Species Act of 1973 (ESA). NEPA requires the compilation of an environmental impact statement (EIS) for major federal agency actions "significantly affecting the quality of the human environment." To meet this essentially procedural requirement, the government must study the consequences of, and alternatives to, proposed actions before making a final decision. BIA regulations expressly require compliance with NEPA in carrying out forest management on Indian land.

The federal actions triggering NEPA may be either direct or supervisory in nature. The direct BIA actions include: (1) program development and administration; (2) forest plan preparation; (3) forest enhancement projects (such as reforestation and thinning); (4) fire prevention projects; (5) insect and disease prevention projects; (6) timber sale preparation; (7) development of tribal integrated resource plans; and (8) road projects. The federal oversight actions that trigger NEPA include approval of timber sales, tribal forest management plans, and tribal integrated resource management plans. Even where tribes assume greater management control over their forests, the secretary's role in contracting with tribes and providing grants to tribes triggers NEPA, because federal funding is normally involved.

The Endangered Species Act is the second major environmental statute that applies to Indian forestlands management. Tribal forestlands provide habitat for an increasing number of species listed as threatened or endangered. Two ESA provisions are of particular importance. Section 7(a)(2) prohibits federal agencies from taking action that will "jeop-

ardize the continued existence” of any listed species, or that will destroy or modify “critical habitat” designated for listed species. When a BIA action will likely affect a listed species living in tribal forestlands, the agency must consult with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service to determine whether the action may jeopardize the existence of the species or destroy its critical habitat. One court has held that the BIA’s approval of a tribal forest management plan and timber sales under NIFRMA are federal “actions” subject to section 7’s consultation requirement and jeopardy prohibition.

Section 9 of the ESA prohibits any person from “taking” a listed species, a term the Supreme Court has construed to include habitat destruction. Legally, this provision is problematic where it implicates treaty rights. Although general statutes such as the ESA normally extend to activities on Indian land, the analysis is different if treaty rights would be impaired. In *United States v. Dion* (1986), the Supreme Court determined that federal statutes do not abrogate treaty rights unless there is “clear evidence” that Congress considered the issue and intended to abrogate. The Court left undecided whether the ESA meets that test.

Despite the uncertain context surrounding ESA regulation, several tribes are developing habitat conservation plans, a tool allowed under section 10 of the ESA, to govern timber harvests that may affect ESA-listed species. Recognizing the growing role of ESA regulation in tribal natural resource management, the secretaries of the Departments of Interior and Commerce signed a joint secretarial order in 1997 outlining procedures and principles to guide their agencies in implementing the ESA on Indian lands. Some tribes are turning to conservation easements and other innovative property-based tools to protect their forestlands.

Trust Liability

As in other resource areas, the federal-tribal trust relationship frames federal obligations toward the tribes in the area of forest management. Tribes have pursued various claims against the federal government for breach of fiduciary duties in managing reservation forestlands, administering timber sales, and handling proceeds gained from those sales. Typically such claims are for monetary damages brought under the Tucker Act of 1987, although tribes may sue the BIA for injunctive relief under the Administrative Procedure Act of 1946 as well.

In its landmark decision in *United States v. Mitchell* (1983), the Supreme Court decided that the forest management

statutes and regulations established “‘comprehensive’ responsibilities of the federal government in managing the harvesting of Indian timber” and that such involvement gave rise to a trust relationship for which the federal government is accountable in damages. Presumably, tribes that continue to rely on comprehensive federal management of their resources will be able to sue the federal government for damages for breach of fiduciary obligations in the post-NIFRMA context.

See also *Endangered Species Act of 1973*; *Environment and Environmental Protection*; *Indian Reorganization Act (1934)*; *Mitchell v. United States* (1980) (1983).

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BIBLIOGRAPHY

- Endangered Species Act*, Public Law 93-207, 93rd Cong., 1st sess. (December 28, 1973).
- Indian Forest Management Assessment Team. “An Assessment of Indian Forests and Forest Management in the United States.” IFMAT Report, 1993.
- Indian Reorganization Act*, Public Law 73-383, 73rd Cong., 2nd sess. (June 18, 1934).
- Mondou, Darla J. “Our Land Is What Makes Us Who We Are: Timber Harvesting on Tribal Reservations after the NIFRMA.” *American Indian Law Review* 21 (1997): 259–296.
- National Environmental Policy Act*, Public Law 91-190, 92nd Cong., 1st sess. (January 1, 1970).
- National Indian Forest Resources Management Act*, Public Law 101-630, 101st Cong., 2nd sess. (November 28, 1990).
- Tribal Self-Governance Act of 1994*, Public Law 103-413, 103rd Cong., 2nd sess. (October 25, 1994).
- Tucker Act of 1887*, 49th Cong., 2nd sess. (March 3, 1887).
- United States v. Dion*, 476 U.S. 734, 740 (1986).
- United States v. Mitchell*, 463 U.S. 219 (1983) (Mitchell II).
- White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 139 (1979).
- Wood, Mary Christina, and Zachary Welcker. “Tribes as Trustees Again (Part I): The Emerging Tribal Role in the Conservation Trust Movement.” *Harvard Environmental Law Review* 32, no. 2 (2008): 373–432.

Fort Harmar (1789), Treaty of

On January 9, 1789, the United States government and Indian tribes of the Ohio Country signed a treaty at Fort Harmar, Ohio, in an effort to end violence along the frontier over disputed land claims. Ratified during President George Washington’s first term, the treaty was the first between the United States and a tribal nation under the newly adopted Constitution. Disagreement centered on the continued settlement by whites of Connecticut’s Western Reserve (“Firelands”), established for veterans of the

American Revolutionary War (1775–1783) that had lost their homes during the conflict. These lands extended west of the Cuyahoga River and into Indian Territory as set forth in the Treaty of Fort McIntosh (1785). Accordingly, Secretary of War Henry Knox ordered Arthur St. Clair, governor of the Northwest Territory, to meet with representatives of the Six Nations, as well as the Wyandot, Delaware, Ottawa, Chippewa, Potawatomi, and Sauk tribes, to negotiate a new agreement.

Favoring a peaceable atmosphere to one of conquest, Congress authorized St. Clair to offer the tribes payment, in the form of goods and valuables, and territory bounded by the Muskingum and Ohio rivers to the east and south in exchange for the lands under dispute. St. Clair, however, refused to negotiate such terms. Instead, through bribery and manipulation, he forced the tribes to accept the boundary terms established at Fort McIntosh. Predictably, the new treaty failed to end the frontier violence, and hostilities between the tribes and settlers continued to escalate until the U.S. victory at the Battle of Fallen Timbers in 1794.

Washington's decision to send the treaty to the Senate for ratification established a precedent that the United States followed until 1871. Proponents of Native American tribal sovereignty have argued that by adopting the ratification, early policy makers for the United States were acknowledging the political sovereignty of the Indian tribes.

See also *Fallen Timbers (1794), Battle of; Knox, Henry; St. Clair, Arthur.*

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BIBLIOGRAPHY

- Horsman, Reginald. *Expansion and American Indian Policy, 1783–1812*. Norman: University of Oklahoma Press, 1992.
- Hosen, Frederick E. *Rifle, Blanket, and Kettle: Selected Indian Treaties and Laws*. Jefferson, N.C.: McFarland, 1985.
- Kappler, Charles J. *Indian Treaties, 1778–1883*. New York: Interland Publishers, 1972.
- Prucha, Francis P. *American Indian Treaties: The History of a Political Anomaly*. Berkeley: University of California Press, 1994.

Fort Jackson (1814), Treaty of

Signed between the United States and the Creek Indians on August 9, 1814, the Treaty of Fort Jackson ended the Creek Civil War (1813–1814). The treaty established a formal peace between the two nations, demanded the return of property taken by Creek warriors during the war, and ceded twenty-three million acres of tribal land to the United States.

This civil war, also known as the Red Stick War, divided the Creek Nation in ways that also affected the War of 1812 (1812–1814). Great Britain allied itself with, and provided assistance to, the Red Stick majority, those Creeks who challenged the cultural and political changes that were transforming Creek society. The United States allied itself with a minority of Creeks who were more accepting of the “civilizing” efforts of the federal government. After a bitter conflict, on March 27, 1814, southern militia forces under Andrew Jackson crushed the Red Sticks at the Battle of Horseshoe Bend on the Tallapoosa River in present-day eastern Alabama.

After significant negotiation with the Creeks, the treaty was signed at Fort Jackson, near Wetumpka, Alabama. Despite a lack of involvement in earlier negotiations, General Jackson dictated the harsh terms of the final agreement. The treaty claimed all the Creek lands in Georgia and much of their lands in Alabama—even though many Creeks had fought with the United States. Some of the land actually belonged to the Cherokee Nation, a mistake that had to be resolved with a subsequent treaty. The agreement also required the Creeks to turn over the rebellion's leaders and to end their trade and diplomatic relations with the British and Spanish agents in the region. The treaty also authorized the United States to establish forts, trading posts, and roads in Creek territory.

Thirty-six chiefs, only one of whom was a Red Stick leader, eventually signed the treaty. The thirty-five others had fought alongside the United States.

See also *Creek Civil War (1813–1814); Great Britain, Indian Policy of; Jackson, Andrew; War of 1812 (1812–1814).*

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BIBLIOGRAPHY

- Heidler, David Stephen, and Jeanne T. Heidler. *Old Hickory's War: Andrew Jackson and the Quest for Empire*. Mechanicsburg, Pa.: Stackpole, 1996.
- Waselkov, Gregory A. *A Conquering Spirit: Fort Mims and the Redstick War of 1813–1814*. Tuscaloosa: University of Alabama Press, 2006.

Fort Laramie (1851), Treaty of

By 1851 more than 100,000 emigrants had traversed the Great Plains of the United States via the overland trails. This massive movement of people and livestock introduced deadly diseases to the Plains Indians, disrupted bison herds, and despoiled natural resources. As a consequence, frustrated Plains Indians sometimes raided wagon trains and were

viewed by emigrants as a nuisance, if not a threat. To guarantee the safety of overland travelers and to promote peace among the Natives, the federal government called for a grand council with all the Plains tribes during the summer of 1851.

By early September 1851, more than ten thousand Native Americans, comprising representatives from the Arapaho, Arikara, Assiniboiné, Cheyenne, Crow, Hidatsa, Mandan, Shoshone, and Sioux peoples (the Comanches and Kiowas refused to attend) had gathered around Fort Laramie. After several weeks of negotiating, an agreement was made between U.S. negotiators Thomas Fitzpatrick, the agent for the Upper Platte agency; David Mitchell, the superintendent of Indian affairs in St. Louis; and representatives of the tribes. For their part, Native Americans agreed to allow overland emigrants to travel the trails unmolested, to respect tribal boundaries, and to end intertribal warfare. The government promised an annual annuity payment of \$50,000 (to be shared by all tribes) for fifty years. When the treaty came before the Senate for ratification, however, the terms were judged too generous and the annuity payments were reduced from fifty to ten years.

The ever encroaching tide of white settlement and diminishing bison herds, however, guaranteed continued conflict. Just three years later, for example, a disagreement over a missing settler's cow sparked the Grattan Fight near Fort Laramie

See also *Buffalo*; *Fitzpatrick, Thomas*; *Grattan Fight*; *Mitchell, David D.*

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BIBLIOGRAPHY

- DeMallie, Raymond J. "Touching the Pen: Plains Indian Treaty Councils in Ethnohistorical Perspective." In *Ethnicity on the Great Plains*, edited by Frederick C. Luebke, 41–46. Lincoln: University of Nebraska Press, 1980.
- Hoig, Stan. *The White Man's Paper Trail: Grand Councils and Treaty-Making on the Central Plains*. Boulder: University Press of Colorado, 2006.
- Kappler, Charles J., comp. *Indian Affairs: Laws and Treaties*. 5 vols. Washington, D.C.: U.S. Government Printing Office, 1904–1941.
- Ostler, Jeffrey. *The Plains Sioux and U.S. Colonialism from Lewis and Clark to Wounded Knee*. New York: Cambridge University Press, 2004.

Fort Laramie (1868), Treaty of

The 1868 Fort Laramie Treaty ended the Bozeman Trail War (1865–1868). It was signed by representatives of the Lakota

(Sioux) Nation and the United States on April 29, 1868, and ratified by Congress on February 16, 1869. Those who signed the treaty on behalf of the Lakotas included representatives from the Sicangu (Brule), Oglala, Miniconjou, Hunkpapa, Santee, Yanktonai, Oohenumpa (Two Kettle), Sihasapa (Blackfeet), and Itazipco (Sans Arc) bands. The treaty included seventeen articles, some of which dealt with education, crime, farming, and the various tradesmen the United States was to provide to the Lakotas.

The most important articles dealt with the land reserved to the Native signatories (the "reservation") and that given up by the Lakotas in exchange for services, promises, and goods. Article II defined the reserved lands, which included what was known as the Great Sioux Reserve—the western half of South Dakota, one-third of North Dakota, the northern edge of Nebraska, one-quarter of Wyoming, and a good-sized corner of Montana. The United States agreed that except for government employees, no non-Lakotas "shall ever be permitted to pass over, settle upon, or reside in" the reserved lands. The United States also agreed that no white people could pass through that area without first getting Indian consent. The Lakotas were permitted to continue hunting south of the reservation, but gave up their claims to all other lands.

Article XII stated that no agreement to give up any reserved lands "shall be of any validity or force" unless it was "signed by at least three fourths of all adult male Indians, occupying or interested in the same." No such agreement has ever been signed.

The treaty was negotiated when the Lakotas were in a position of strength, having just defeated the United States militarily. It was broken immediately, however, as U.S. citizens continued to trespass on Lakota lands. This came to a head in 1874, when Lt. Col. George Custer led a party into the Black Hills—the heart of the reservation and an area sacred to the Lakotas—to confirm the presence of gold. When his reports became public, non-Indians rushed into the region.

In 1877 Congress passed the Black Hills Act, which abrogated (repealed) portions of the 1868 Fort Laramie Treaty and gave the United States possession of the gold-rich hills. The Lakotas filed a lawsuit in 1923 charging that the act took the Black Hills without just compensation under the Fifth Amendment to the U.S. Constitution. Legal actions around this issue were dismissed and reopened several times; one of the suits reached the U.S. Supreme Court in 1980 in *United States v. Sioux Nation of Indians*.

In its decision, the Supreme Court said that the Black Hills were taken from the Lakotas illegally and that the 1877 act “ignored the stipulation of the Fort Laramie Treaty that any cession of the lands . . . would have to be joined in by three-fourths of the adult males.” The Court awarded the Lakotas \$17.5 million, plus 5 percent annual interest starting in 1877, or about \$106 million. Since 1980 the total award, with interest, has grown to over \$400 million, but the Lakotas have refused the money and continue to demand the Black Hills be returned to their control.

See also *Black Hills; Treaties: Historical Overview.*

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BIBLIOGRAPHY

- Institute for the Development of Indian Law. *Treaties and Agreements and the Proceedings of the Treaties and Agreements of the Tribes and Bands of the Sioux Nation*. Washington, D.C.: Institute for the Development of Indian Law, 1973.
- Lazarus, Edward. *Black Hills/White Justice: The Sioux Nation Versus the United States, 1775 to the Present*. New York: HarperCollins Publishers, 1991.
- Marshall, Joseph M., III. *The Journey of Crazy Horse: A Lakota History*. New York: Penguin Group, 2004.
- Ortiz, Roxanne Dunbar. *The Great Sioux Nation: Sitting in Judgment on America*. Berkeley, Calif.: Moon Books, 1977.
- Prucha, Francis Paul, ed. *Documents of United States Indian Policy*. 2d ed. Lincoln: University of Nebraska Press, 1990.
- Wilkins, David E. *American Indian Sovereignty and the U.S. Supreme Court: The Masking of Justice*. Austin: University of Texas Press, 1997.

Fort Stanwix (1768), Treaty of

At the conclusion of the French and Indian War (1754–1763), the British enacted the Proclamation of 1763, which prohibited English colonists from settling west of the Appalachian Mountains. The act also established the territory from the Appalachians to the Mississippi River as an Indian reserve. However, colonists continued to move into the area and tensions with the tribes increased. Over the next five years, the British sought a way to end the continual violence along the frontier as the Ohio tribes attempted to halt white expansion upon their lands. To this end, representatives of the British government, led by Sir William Johnson, and the Iroquois Confederacy, or Six Nations, met at Fort Stanwix, New York, to renegotiate the boundary between English settlements and Iroquois lands previously established in the proclamation.

On November 5, 1768, Johnson and the chiefs of the Mohawks, Onondagas, Senecas, Oneidas, Cayugas, Tuscaroras, Mingos, and Delawares signed a treaty that established

a boundary line further west, with the Six Nations ceding to the British the lands south of the Ohio River for monetary compensation. However, the Shawnees, Delawares, and Cherokees—the tribes that lived in the ceded territory—had no part in the negotiations and rejected the Iroquois’ authority to negotiate terms for land they did not occupy. As such, the treaty did very little to end hostilities between encroaching English settlers and the tribes along the Ohio River, particularly the Shawnees, which culminated in Lord Dunmore’s War (1774).

See also *Johnson, William; Lord Dunmore’s War (1774); Proclamation of 1763.*

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BIBLIOGRAPHY

- De Puy, Henry F. *A Bibliography of the English Colonial Treaties with the American Indians; Including A Synopsis of Each Treaty*. New York: AMS Press, 1971.
- Jennings, Francis. *The History and Culture of Iroquois Diplomacy: An Interdisciplinary Guide to the Treaties of the Six Nations and Their League*. Syracuse, N.Y.: Syracuse University Press, 1995.
- Jones, Dorothy V. *License for Empire: Colonialism by Treaty in Early America*. Chicago: University of Chicago Press, 1982.
- Morrison, Kenneth M. “Native Americans and the American Revolution.” In *Indians in American History: An Introduction*, edited by Frederick E. Hoxie, 102–103. Arlington Heights, Ill.: Harlan Davidson, 1988.

France, Indian Policy of

Most historians credit France with developing the most enlightened Indian policy among the North American colonial powers. Unlike the Spanish, they generally did not depend on military conquest or force Natives to do labor for them. Unlike the English, they did not try to establish an agricultural empire that would encroach on indigenous lands. Perhaps most like the early Dutch, the French interest in America was primarily commercial. Despite their facility for diplomacy and trade, however, the French encountered harsh Native resistance in places as far removed as Florida, the Great Lakes region, and the lower Mississippi River.

The Breadth of Empire

The bulk of the French empire in North America lasted from the first voyage of Jacques Cartier up the St. Lawrence River (1534) until the surrender of New France to Great Britain in the Treaty of Paris (1763). French Louisiana, divided between Spain (1762) and Great Britain (1763), returned briefly to French control in 1800 before Napoleon sold it to

the United States three years later. The empire at its height covered an enormous expanse, ranging from Louisbourg on the Atlantic coast through Quebec and Montreal up the St. Lawrence Valley, stretching beyond Hudson Bay into western Canada and down the Mississippi River to New Orleans.

To explore and later administer such a vast area, the French controlled a network of rivers and lakes that linked the Atlantic Ocean to the Great Lakes and the Gulf of Mexico. It was only with the help of long-term Native allies that they were able to extend the reach of empire from the French royal palace in Paris, later Versailles, to distant fur trading posts in the remote Canadian interior.

Early French attempts at gaining a toehold on the continent met with failure. Excursions to the Montreal area and the east coast of Florida sparked robust Native resistance in the sixteenth century. French settlement did not prove successful until the founding of Quebec in 1608, a development made possible only because the area had been recently deserted by the Iroquois Confederation.

In 1609 French explorer Samuel de Champlain and his Native allies, including the Montagnais, Algonquins, and Hurons, routed the Iroquois in battle, a fateful skirmish that confirmed French control in the St. Lawrence Valley and set the scene for future trade alliances. An intrepid soldier and accomplished statesman, Champlain went on to explore the western country as far as Lake Huron and become virtual governor of Quebec. Aside from an occasional outbreak of peace, the Iroquois would become the enemies of the French for much of their tenure in America. War between Native peoples, until this point waged on a local basis, was destined to become imperial in scope.

New France (the name for Canada later extended to all French North America) was originally administered from Quebec by a governor and *intendant*, or royal officer. In 1627 the Company of New France was established to govern the colony as a commercial monopoly, but in 1663 it became a royal province under a king who claimed to rule by divine right. This centralized chain of command led to greater control than was common in the diverse English colonies and facilitated the establishment of enduring Indian alliances. As New France expanded, its administration grew more complex. Far to the south, Louisiana was administered by the Company of the Indies until the French crown took control in 1731. Covering an immense area based along the Mississippi Valley, this part of New France was administered at different times through Biloxi and Mobile (in present day Alabama) and finally New Orleans.

The Fur Trade

Like other European powers, the French sought to exploit raw materials they found in America—fish; timber; and, most importantly, animal furs. A skilled and willing local population aided them in acquiring furs. The trappers and middlemen in the fur trade were Montagnais, Micmacs, Hurons, Algonquins, and others who allied themselves with the French *voyageurs*, or canoe men, in the backwoods and the merchants in the downriver settlements. In return for trapping and transporting furs, tribal peoples were paid in manufactured goods: mirrors, kettles, axes, glass beads, firearms, and alcohol.

The first fur trading post appeared at Tadoussac in 1600. Within a few years, the French were deeply enmeshed in a trade that trapped the American interior for pelts of fox, marten, bear, and especially beaver, the fur of choice in Europe for the manufacture of broad-brimmed felt hats. Settlements clustered along the main waterways of New France, providing a defensive chain of trading forts that were armed against the British and linked the Atlantic Ocean with the Gulf of Mexico.

The French succeeded in the fur trade by cooperating with Indian allies on a number of levels. Explorers like Cartier and Champlain arranged with Indian leaders to exchange French and Native boys and train them as interpreters. Intermarriage was common between French men and Indian women, at least in the frontier outposts, a practice encouraged by the lack of French women in the colony. The result was a large mixed ancestry (*Métis*) population that made the family yet another instrument of empire. The French were even receptive to Native technology, using the birch bark canoe as a key tool for exploring the interior.

Most Indians chose to be partners with the French, not enemies. And they were a diverse lot, from the hunting-gathering Montagnais in the east to the farming Hurons of central Ontario, close relatives of the Iroquois who resided in permanent villages. But the French were more dependent on their allies than vice versa. Native people were given special status in French settlements, including immunity from paying dues to French lords, forced labor, and punishment for certain crimes.

Religious conversion of the Natives was a prominent goal. Montreal itself was founded as a missionary settlement (1642). The Jesuits who first came to preach in 1625 were bolder, wealthier, better educated, and more inquisitive than

most of their church brethren. They proved a valuable service not only in spreading the gospel of French predominance but in recording some of the earliest accurate ethnographic information on Indian peoples north of Mexico.

Though solicitous of their Native allies, the French clung to the assumptions of empire. It was a widely held notion in New France that Indians should become French in outlook and Catholic in religion. In fact, the *voyageurs* who penetrated the interior were looked down upon by much of New France for their uncivilized ways. And intermarriage may have been fine for Native women, according to the conventional thinking, but not French *mademoiselles*. Like their European rivals, the French living in Quebec and Montreal viewed themselves as culturally superior to the Natives they courted, befriended, and sometimes married.

The French Legacy

Impersonal forces like geography facilitated French success with Native Americans. Outside the Mississippi Delta, most major French settlements were confined to Canada, where arable land was limited. Combined with other factors, this sharply curbed immigration from the Old World—there were only about fifteen thousand French in all of New France in 1700. Fewer settlers made Indian relations easier to broker, and the shared fear of the Iroquois Confederation made close friends of French and Indian allies who might otherwise have been wary competitors.

The failure of Indian policy south of Canada suggests the French were no more inherently disposed to deal fairly with Native peoples than were their European rivals. In the deep south, Florida expeditions under Jean Ribault and René Goulaine de Laudonnière (1562–1565) inspired a violent response from Timucua Indians. The Natchez Indians on the lower Mississippi were brutally scattered in 1729. And the French sought to break the power of the nearby Chickasaws, allies of the Natchez, who blocked control of the Mississippi. A series of failed expeditions beginning in 1736 left the Chickasaws, though severely weakened, still in control of the river—and bitter enemies of the French-allied Choctaws, their cultural and linguistic relatives.

Further north, the French coexisted with Indian peoples in the Great Lakes area for the better part of two centuries. As Richard White has noted, the process was one of accommodation rather than acculturation. Through a complex series of agreements between refugees, traders, villages, and ad hoc allies, a French and Indian coalition based on mutual interests emerged, a version of “empire” that evolved from

local needs rather than absolutist designs. Still, the French could be difficult neighbors. Relations with Great Lakes tribes sometimes became so volatile that the French massacred a Fox village of nearly one thousand inhabitants in 1730. When circumstances permitted, the French could be as unrelenting and cruel as any of their colonial adversaries.

A series of colonial wars between France and Britain, dating to the late seventeenth century, climaxed with The French and Indian War (1754–1763). Though Native fighters and tactics routed Edward Braddock’s British regulars in 1755, the English eventually prevailed. Clashing over claims to the Ohio Country west of the Appalachians, both European powers enlisted Native allies in what became a global struggle known as The Seven Years’ War (1756–1763). Not long after the Treaty of Paris was signed, Pontiac’s Rebellion (1763–1766), named for the spirited Ottawa leader, erupted, supported, if not sponsored by, the French. Uniting tribes from the Ojibwes and Potawatomis to the Miamis, Shawnees, and Mingos, the alliance fought the British to a standstill in a conflict marked by brutality and massacres on both sides. French influence in the continent’s interior gradually but inevitably withered.

The French record in South America was similarly marked by early cooperation followed by political failure. *Truchements*, or interpreters, were used to establish a Protestant colony at present-day Rio de Janeiro in the mid-sixteenth century, just as had been done in Catholic Canada. But fighting between the French and Portuguese, and the Indian rivalries they ignited, spelled doom for a colony under the direction of Nicolas Durand, Chevalier de Villegagnon, the only French settlement of note on a continent they hopefully called “Antarctic France.”

However much Britain and France may have disagreed as colonial powers, they concurred in their assumptions about how to solve the “Indian problem.” Early in the seventeenth century, the French opened boarding schools to “civilize” Native students. In 1637 they introduced a reserve system that anticipated later Anglo policy about how to civilize and protect Native people by setting them apart from white communities.

The colonial policy of France would influence later U.S. administrations directly and indirectly. In competing with the French, the British developed a policy of negotiating with tribes as sovereign bodies on some level and compensating them for ceded lands—an inexpensive way to acquire Native land and assert ownership against the claims of other imperial powers like France. The British system of purchas-

ing “aboriginal title” later became the basis for Indian treaty-making by the United States government.

The early presence of French on the continent shaped the United States in other ways. It was the French whose resistance to British expansion provided the thirteen colonies with a precedent for defying King George. More practically, the tactics used during the French and Indian War influenced how the colonists would fight the American Revolutionary War (1775–1783). Eventually, the contested and sometimes violent fate of Native people in the United States would be the result of the long and bitter struggle of the colonial wars that preceded the war.

See also *French and Indian War (1754–1763)*; *Great Britain, Indian Policy of*; *Fur Trade*; *Pontiac’s (1763–1766)*.

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BIBLIOGRAPHY

- Axtell, James. *The Invasion Within: The Contest of Cultures in Colonial North America*. New York: Oxford University Press, 1985.
- Conrad, Glenn R., ed. *The French Experience in Louisiana: Volume I of the Louisiana Purchase Bicentennial Series in Louisiana History*. Lafayette: Center for Louisiana Studies, University of Louisiana at Lafayette, 1995.
- Dickason, Olive Patricia. *The Myth of the Savage and the Beginnings of French Colonialism in the Americas*. Edmonton: University of Alberta Press, 1984.
- Eccles, William J. *The Canadian Frontier: 1534–1760*. Revised Edition. Albuquerque: University of New Mexico Press, 1983.
- . *France in America*. New York: Harper & Row, 1972.
- Galloway, Patricia K. ed. *La Salle and His Legacy, Frenchmen and Indians in the Lower Mississippi Valley*. Jackson: University Press of Mississippi, 1982.
- Havard, Gilles. *The Great Peace of Montreal of 1701: French-Native Diplomacy in the Seventeenth Century*. Montreal, Kingston: McGill-Queen’s University Press, 2001.
- Jaenen, Cornelius J. *The French Relationship with the Native People of New France and Acadia*. Ottawa: Indian and Northern Affairs Canada, 1984.
- . *Friend and Foe: Aspects of French-Amerindian Cultural Contact in the Sixteenth and Seventeenth Centuries*. New York: Columbia University Press, 1976.
- Martin, Calvin. *Keepers of the Game: Indian-Animal Relationships and the Fur Trade*. Berkeley: University of California Press, 1978.
- Parkman, Francis. *France and England in North America*. Vol. 1. New York: Penguin Putnam, Inc., 1983.
- Quinn, David B. *North America from Earliest Discovery to First Settlements: The Norse Voyages to 1612*. New York: Harper & Row, 1977.
- Trigger, Bruce. *Natives and Newcomers: Canada’s “Heroic Age” Reconsidered*. Montreal: McGill-Queen’s University Press, 1986.
- White, Richard. *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815*. New York: Cambridge University Press, 1991.

Frank, Billy, Jr.

Billy Frank Jr. (1931–), an activist and fisherman, has dedicated himself to the protection of the habitats, natural resources, and lifeways of Native Americans in the Pacific Northwest. At age fourteen he was arrested by Washington State wildlife wardens for fishing in the Nisqually watershed, an event which likely influenced his later actions. During the 1960s, African American civil rights “sit-ins” inspired Native American “fish-ins.” This focused national attention on Frank’s Landing—an area in the Nisqually River basin inhabited by Natives—as a key battleground in the fight between Indians and the federal government. The region’s Indians demanded that the government uphold treaty rights to end a century of Washington State interference that jeopardized tribal survival and sovereignty.

This struggle created a new level of awareness of the well-developed body of law defining the scope of Indian hunting and fishing rights in the United States. Billy Frank’s Nisqually forbearer, Chief Leschi, insisted that the Native community signatories to the 1854 Medicine Creek Treaty secured the reserved “right of taking fish, at all usual and accustomed grounds and stations . . . in common with all citizens of the Territory.”

In 1974 federal judge George Boldt ruled that “in common” meant that Indian fishers were entitled to half the harvestable catch of salmon. Despite resistance to this decision by state officials and commercial fishing interests, the end result has been cooperation between federal, state, and tribal governments over fisheries comanagement since the U.S. Supreme Court upheld the Boldt decision in *U.S. v. Washington* (1979).

Billy Frank Jr. galvanized and sustained Native American efforts that produced the most significant Indian rights case of the twentieth century. He currently chairs the Northwest Indian Fisheries Commission, which seeks to restore the environment and natural resources of the western Washington treaty tribes. In 2004 the *Indian Country Today* newspaper presented him with its Inaugural American Indian Visionary Award.

See also *United States v. Washington* (1979).

John M. Shaw

BIBLIOGRAPHY

- American Friends Service Committee. *Uncommon Controversy: Fishing Rights of the Muckleshoot, Puyallup and Nisqually Indians*. Seattle: University of Washington Press, 1970.

Cohen, Fay G. *Treaties on Trial: The Continuing Controversy over Northwest Indian Fishing Rights*. Seattle: University of Washington Press, 1986.

Wilkinson, Charles. *Messages from Frank's Landing: A Story of Salmon, Treaties, and the Indian Way of Life*. Seattle: University of Washington Press, 2000.

Franklin, Benjamin

Benjamin Franklin (1706–1790) was one of the most noted Americans of the eighteenth century, winning fame as a scientist, printer, writer, statesman, and ultimately as a leader of the American Revolution. Franklin's activities in several of these capacities had lasting effects upon the history of American Indian peoples.

As a printer in Philadelphia, Franklin published (between 1736–1748 on his own and from 1748–1762 with partner David Hall) the proceedings of at least thirteen Indian treaties and conferences. The bulk of these treaties were between Pennsylvania and the Iroquois Six Nations or the Delawares (Lenapes). Other parties to the treaties included the colonies of Maryland, Virginia, Delaware, and New York, and regional Indian nations such as the Shawnees, Miamis, Nanticokes, and Conoys. Franklin's treaty records were often reprinted throughout the colonies and were a major source of information about Indians for Anglo-Americans.

Franklin's disposition towards American Indian peoples in his writings was often contradictory. In *Plain Truth* (1747) Franklin focused on the potential for French-allied Indians to threaten British North America, a reality that led him to endorse writer Archibald Kennedy's 1751 proposal to incorporate the Six Nations into an intercolonial defensive scheme. Franklin's initial draft of the Articles of Confederation (1775) also held a place for the Six Nations. Yet in his 1751 essay *Observations Concerning the Increase of Mankind*, Franklin imagined European settlers expanding over the North American continent, one assumes displacing the Indian population.

During the American Revolutionary War (1775–1783), Franklin served along with Patrick Henry and James Wilson as commissioners for the middle department on Indian affairs for the Continental Congress. Franklin was also the United States's leading negotiator of the Treaty of Paris (1782–1783), which ended the war. The treaty failed to mention any American Indian nation, an omission that allowed Native commissioners to claim Indian lands by the "right of conquest," a doctrine the United States first put forward to the Six Nations of the Iroquois at the Treaty of Fort Stanwix (1784).

See also *American Revolutionary War (1775–1783)*; *Articles of Confederation*; *Conquest, Doctrine of*; *Paris (1783)*, *Treaty of*.

Leonard J. Sadosky

BIBLIOGRAPHY

Kalter, Susan, ed. *Benjamin Franklin, Pennsylvania, and the First Nations: The Treaties of 1736–62*. Urbana: University of Illinois Press, 2006.

Stourzh, Gerald. *Benjamin Franklin and American Foreign Policy*. Chicago: University of Chicago Press, 1969.

Wood, Gordon S. *The Americanization of Benjamin Franklin*. New York: Penguin, 2004.

Fredericks, Thomas W.

Thomas W. Fredericks (1943–) is a member of the Mandan, Hidatsa, and Arikara Nation and is currently a partner in the Colorado law firm of Fredericks, Peebles and Morgan. As an associate solicitor with the Department of Justice (1978–1980) under President Jimmy Carter, he wrote an unpublished opinion on the Alaska Native Settlement Claims Act of 1971, which revoked federally held land trusts and transferred them to tribal villages and corporations. Fredericks asserted that the Department of the Interior did not have the discretion to hold any former reservation lands in trust for Native communities. Fredericks also served as the assistant secretary of the interior for Indian affairs in 1981, at which time he oversaw the development of an interagency task force charged with coordinating federal Indian programs.

See also *Alaska Native Claims Settlement Act of 1971*; *Trust Lands*.

Kristin Teigen

BIBLIOGRAPHY

"Groups to Coordinate Indian Aid Established by the White House," *New York Times*, August 10, 1980.

Walsh, John F. "Settling the Alaska Native Claims Settlement Act." *Stanford Law Review*, vol. 38, no. 1 (1985): 227–263.

Freedmen

Prior to the 1860s, the Cherokee, Chickasaw, Choctaw, Creek, and Seminole tribes permitted their citizens to engage in slavery as a matter of tribal law. The institutionalized slavery within these nations mirrored slavery in the Southern states, with individuals of African descent enslaved by wealthy individuals to support an agricultural economy.

Although slavery within Native nations predated the forced removal of tribes from the Southeast, the practice intensified following the reestablishment of tribal governments in Indian Territory. During this time, tribal legislatures

passed laws that protected the property rights of slave owners, forbade intermarriage with slaves, and provided assistance for the return of runaway slaves.

The abolition of slavery within Indian nations occurred during or immediately after the American Civil War (1861–1865). Although some tribal governments voluntarily ended slavery by tribal law, the post–Civil War treaties between the United States and the Five Tribes contained emancipation provisions outlawing slavery within the Indian nations. In addition to their emancipation, these treaties secured legal rights for the so-called freedmen, including tribal citizenship and rights to land allotments.

In the years that followed, freedmen fared differently depending on the tribe to which they now belonged. Within the Cherokee Nation, freedmen voted in tribal elections and were allowed to serve on the tribal legislatures, although the Cherokees challenged the freedmen's right to share equally in tribal assets in federal court. The Chickasaw Nation, on the other hand, never amended tribal laws to provide for freedmen political participation.

Today, the term “freedmen” includes the descendants of individuals who were enslaved within the tribal nations. The extent of freedmen rights within the various tribes has been a frequent topic in courts of law since emancipation. For over 140 years, freedmen have filed legal challenges for the enforcement of tribal citizenship and equal protection rights in tribal and federal courts with varying degrees of success. In recent years, freedmen have renewed legal challenges seeking participation in modern tribal governments. To date, only the Seminole and Cherokee freedmen have had limited success securing tribal citizenship, with all other freedmen excluded from tribal citizenship. Tribal citizenship for freedmen is a controversial political topic, in which the rights of the freedmen must be weighed against the well-established right of the tribes to define eligibility for citizenship.

See also *Civil War (1861–1865)*; *Race and Racial Thinking*; *Slavery: Enslavement of Indians*; *Slavery: Indian Slaveholding*.

Stacy Leeds

BIBLIOGRAPHY

- Abel, Annie Heloise. *The American Indian as Slaveholder and Secessionist*. Lincoln: University of Nebraska Press, 1992.
- Allen v. Cherokee Nation*, JAT-04-09 (March 6, 2006).
- Littlefield, Daniel F. Jr. *The Cherokee Freedmen: From Emancipation to American Citizenship*. Westport, Conn.: Greenwood Press, 1978.
- Sturm, Circe. *Blood Politics: Race, Culture, and Identity in the Cherokee Nation of Oklahoma*. Berkeley: University of California Press, 2002.

Frémont, John C.

John C. Frémont (1813–1890), an explorer, surveyor, topographer, Civil War officer, abolitionist, and two-time Republican presidential candidate was born January 21, 1813, in Savannah, Georgia. As a member of the U.S. Army Corps of Topographical Engineers, Frémont served on a team surveying the railroad planned to connect Charleston, South Carolina, to Cincinnati, Ohio, and then went on an expedition to map the upper Mississippi and Missouri rivers from 1838–1839. After completing a survey of the Des Moines River in 1841, Frémont married Jessie Benton, daughter of influential Missouri senator Thomas Hart Benton, a champion of American westward expansion. Frémont's explorations were pivotal in shaping the government's Indian policy and law in the nineteenth century, informing the U.S. programs of removal and expansion and the reservation system.

Frémont's expeditions to the Oregon Trail and the Sierra Nevada with Kit Carson (1841–1846), and his journeys into Wyoming's Wind River Range (1842–1844) led him to become the first white man to view Lake Tahoe, to determine the Great Basin has no outlet, and to map Mt. St. Helens in Washington State. The wide publication of maps, surveys, and topographies of these trips led Frémont to acquire the title of “pathfinder.” These explorations led to the increased settlement of Americans westward, clashes with Native American populations, and ultimately political debates over expansion that resulted in the U.S.–Mexican War (1846–1848). Although Frémont achieved success in the political arena on the local, state, and national levels between 1846–1881, it was his earlier actions as an explorer that helped shape U.S. Indian policy.

See also *Carson, Christopher “Kit”*; *U.S.–Mexican War (1846–1848)*; *Westward Migration*.

Hettie V. Williams

BIBLIOGRAPHY

- Chaffin, Tom. *Pathfinder: John Charles Frémont and the Course of American Empire*. New York: Hill & Wang, 2004.
- Nevins, Allan. *Frémont: Pathmaker of the West*. New York: Continuum International Publishing Group, 1987.
- Roberts, David. *A New World: Kit Carson, John C. Frémont, and the Claiming of the American West*. New York: Simon & Schuster, 2001.

French and Indian War (1754–1763)

The French and Indian War (1754–1763), called the Seven Years' War in Europe, was the culmination of a series of major wars that pitted European nations against one another in a struggle for imperial supremacy. In North America, the French and Indian War involved French troops and their (primarily Algonquian) Indian allies against the British military, colonial militias, and Native allies principally drawn from the Iroquois confederacy. By 1760 the English had gained the upper hand, which forced the French to turn over the Louisiana Territory to the Spanish and, in the Treaty of Paris (1763), their Canadian possessions to the English. The war led to a greater emphasis by the British to engage American Indians in diplomatic relations even as the historic divide grew larger between American colonists and Native Americans.

The expansion of European empires in America led to increasing tensions and conflict during the seventeenth and eighteenth centuries. The Spanish claimed the southern lands, ranging from Florida east to California. The French claimed the St. Lawrence Valley, the Great Lakes, the major tributaries of the Mississippi River (Ohio, Platte, Missouri, Arkansas), and the Mississippi River itself. The English, meanwhile, claimed the eastern seaboard stretching from Georgia to Maine. The English and French encroached on the lands of Algonquian tribes of the East Coast, such as the Abenakis; the five major tribes of the Southeast (the Cherokees, Chickasaws, Choctaws, Creeks, and Seminoles); the Iroquois Confederation; the tribes of the Great Lakes and northern plains, such as the Ottawas and Sioux; and the Plains Indians.

The first major conflict in North America between the British and the French, King William's War (1689–1697), was followed by others: Queen Anne's War (1703–1713), Dummer's War (1722–1725), and King George's War (1744–1749). Generally these were wars between the French and English, implacable enemies because of centuries of conflict in Europe. The wars were caused by rival claims of American empire, competition over the resources (such as furs) of the American interior, and conflicting religious views, the French being primarily Catholic and the English predominantly Anglican and Puritan. Control of the fur trade, in particular, brought American Indians into the conflict between the French and the British.

The French were more successful in befriending the Americans Indians, partly because they were less condescending toward the Indians than the English, and also because of the activities of French missionaries in converting the Indians to Catholicism. The English required their British-American colonies to have active militia comprised of citizen-soldiers, led by British regular troops. The French and Indians fought guerrilla warfare, which elicited the same response from the British. Both sides took scalps (the visible sign of the death of an enemy warrior). Indians such as the New England Algonquians were adept at raiding British-American settlements, killing, burning, looting, and kidnapping. The British responded in kind, committing appalling acts against Indian villages. For example, after years of heinous crimes committed by the St. Francis Indians against New Hampshire settlements, Major Robert Rogers led a band of rangers against the St. Francis village in October 1759, killing many innocent women and children.

The French and Indian War began in 1754, when Virginia governor Robert Dinwiddie sent Major George Washington of the Virginia militia to try and expel the French from the confluence of the Monongahela and Allegheny rivers. Washington fought a few skirmishes with the French but had to retreat. The next year a much larger British force under the command of General Edward Braddock returned to western Pennsylvania, but was defeated by the French stationed at Fort Duquesne. The French fort held out until 1758, when the English and their Native allies, including the Cherokees from the south, ousted the French. So tenuous was the relationship between the Cherokees and the American colonists that conflict erupted in 1758 into a full scale war, the Anglo-Cherokee War, which lasted until the defeat of the Cherokees in 1761. Meanwhile William Johnson, the British superintendent of Indian affairs, having befriended the Iroquois, led them north to attack the French fortification of Crown Point on Lake Champlain, the loss of which would allow the British to ascend Lake Champlain into Canada. Johnson was stopped, however, and had to retreat to Lake George, where he built Fort William Henry.

The French responded with forces under the command of the Marquis de Montcalm, attacking the fort and driving the British from the lakes of upper New York. The tide changed, however, when the British responded with a huge build-up of troops and ships, attacking the French fortress at Louisburg, which left the St. Lawrence Valley defenseless. Fort Frontenac on Lake Ontario fell soon after. These French defeats allowed British forces in 1759 to move up the

St. Lawrence River to attack Quebec. The most significant battle occurred on the Plains of Abraham, where the British, led by James Wolfe, defeated the French under Montcalm. After the surrender of Quebec, Montreal followed suit a year later, and the British controlled New France.

Even so, some French allies refused to give up. When the British occupied the former French forts at Detroit and Michilimackinac, the neighboring Ottawas, Potawatomis, and Hurons refused to accommodate them. Led by the Ottawa chief Pontiac and inspired by a Delaware Indian called Neolin the Prophet, in 1763 the Indians of the Great Lakes and Old Northwest resisted British forces. Bloodshed and violent acts committed by both sides returned to the shores of the Great Lakes; British forts at Michilimackinac, Presque Isle, and Le Boeuf fell; and British-American farms and small settlements were overrun by the Senecas, Delawares, and Chippewas. Fort Detroit held out, and British reinforcements arrived. Pontiac sued for peace, and the region was again pacified.

Pontiac's War (1763–1766) exemplified the problems the British would encounter in trying to administer their expanded empire in North America in the wake of the French and Indian War. The British were wary of continuing conflicts between their settlers and trans-Appalachian Indian tribes, and King George III issued the Proclamation of 1763, which restricted American movement across the Appalachians and into the lands of the Ohio River Valley. To pay for the costs of the French and Indian War and to administer more effectively their expanded empire, the British tightened up old navigation laws, imposed the Sugar Act on the colonies, and passed the Stamp Act in 1765 to raise revenue; these acts were met with violent protest in the thirteen colonies. The French and Indian War and its aftermath convinced the British that they needed a permanent military presence in the colonies, which made worse the growing fear among many colonists that the British were attempting to impose a repressive tyranny on them.

Native American tribes, however, began to see the British colonies as a greater threat than the British Empire. The peace treaty that ended Pontiac's War showed the British willingness to engage in diplomacy with the American Indians. At the same time, however, British-American colonists still considered many North American tribes as enemies. When the American Revolution began in the 1770s, most American Indian tribes in the East sided with the British.

See also *American Revolutionary War; Canada, Indian Policy of; France, Indian Policy of; Fur Trade; Great Britain, Indian Policy of; Johnson, William; Pennsylvania, Indian Policy of; Pontiac's Rebellion; Proclamation of 1763; Washington, George.*

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BIBLIOGRAPHY

- Anderson, Fred. *Crucible of War: The Seven Years' War and the Fate of Empire in British North America, 1754–1766*. New York: Knopf, 2000.
- Auth, Stephen F. *The Ten Years' War: Indian-White Relations in Pennsylvania, 1755–1765*. New York: Garland, 1989.
- Parkman, Francis. *The Battle for North America*. Detroit, Mich.: Phoenix Press, 2001.
- Utley, Robert M., and Wilcomb E. Washburn. *Indian Wars*. Boston, Mass.: Houghton Mifflin Co., 1977.
- White, Richard. *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815*. Cambridge: Cambridge University Press, 1991.

Fur Trade

The North American fur trade began before the arrival of the Europeans when, for millennia, Native peoples trapped and hunted the plentiful fur-bearing animals of the continent, trading surplus furs to other tribes in return for those their own tribe needed. Indians used furs for warmth in cold climates and for ceremonial dress. Throughout history, tribes were often obliged to defend their hunting grounds against intruders, such as the European immigrants who came to America looking to establish colonies and generate trade and wealth. French and English trappers and traders competed for the fur trade during the seventeenth and eighteenth centuries, followed by a century of competition between Americans and Canadians for control of the fur trade of the Rocky Mountains.

The objects of trade were beaver, otter, mink, marten, raccoon, and fox pelts; bear and deer skins; and buffalo blankets. Pelts from fur-bearing animals were usually best in quality during the fall, when the animal was fat and healthy, or in the early spring after the cold winter had yielded a thick coat. Indians and some American hunters used a trap called a culheag to catch bear or marten. The culheag consisted of two logs, propped one atop the other, held in a scissor fashion by a twig that was attached to another stick that held the bait. The area was scented with meat, which attracted the animal. When the animal placed its head between the logs to tug on the bait, the top log fell upon it, killing the animal but preserving the fur. The Indians used snares or bows and arrows to catch some prey before they began to utilize the iron traps traded to them by European hunters.



The fur trade between European and Native Americans served as a major vehicle for colonial economic development, as well as a means to establish relations with Indian tribes.

Indian hunters traveled to hunting grounds on foot or by canoe. Noting this, French and English hunters learned how to make Indian canoes to facilitate their movements through the forest. By the late eighteenth and early nineteenth centuries, American fur traders and Canadian *voyageurs* used pirogues, wooden boats propelled by oars, on larger rivers such as the Missouri.

John Bradbury, the English botanist who travelled the Missouri River in 1811 with hunters from the Pacific Fur Company, learned that the hunters had to know much about the animals they tracked, and that they could exactly imitate the animals' cries. Beavers were very intelligent, the hunters told Bradbury, and could teach their young to be wary of traps. Jeremy Belknap, who wrote a natural history of New Hampshire in 1791, claimed that Indians and settlers prized raccoon pelts as much as beaver. He wrote that hunters preserved their pelts by salting and packing them tight, skin side in.

European Fur Trade

The earliest European explorers of coastal North America discovered the plentiful fur-bearing animals to be had by the industrious trapper. Competition between the English and

French accelerated during the seventeenth century, as each country tried to outdo the other to establish friendly trade relations with the Algonquians in order to gain a hold on the fur trade. The French took the lead during the 1600s and 1700s. French settlements along the St. Lawrence River Valley were less extensive, so there was less a threat that their population would take over Indian hunting territories. By contrast, the English settlements were more populous, spreading out along the east coast between the Atlantic and the Appalachians from Maine to Georgia. The French were also great explorers, penetrating the trans-Appalachian forests and plains to and beyond the Mississippi River. As French explorers descended and ascended the various tributaries of the Mississippi, they established trade relations with the Native inhabitants. French explorer B nard de La Harpe, for example, in 1719 journeyed up the Red River and then explored the Arkansas River, making contact with the Wichita tribe, which was rich in beaver pelts, deer hides, bear skins, and buffalo robes. Additionally, when the Osages entered into the Arkansas Valley in the 1750s, they offered French and Spanish traders at Three Forks bear and deer skins and beaver and rabbit pelts.

From their base in New Spain, Spanish explorers also journeyed into the gulf coast areas to trade for deer skins,

and into the southern Rockies to trade with Native tribes for beaver pelts. Trading centers in the colonial period existed at Santa Fe, New Orleans, Pensacola, and St. Louis.

At the end of the French and Indian War (1754–1763), the French turned over their lands to the English, at which point they became a lesser threat to the fur supply than the expanding thirteen colonies. When English surveyor James Chadwick journeyed up the Penobscot River in Maine in 1764, he marked a place at Treat's Falls, just below Old Town, beyond which settlers were to limit their beaver trapping per the orders of Massachusetts governor Francis Bernard. The Abenaki tribe had requested that the governor limit white settlement in the interior, as the beaver supply was slowly diminishing. The Abenakis claimed that their practice was to trap two-thirds of the beaver every third year but leave one-third to breed. The English, however, took beaver without limit.

Although it provided the basis for a relationship with the Indian tribes and served as a major source of economic development for the English colonies, the fur trade created unique problems for the colonial governments. The most difficult was the regulation of dishonest traders and merchants who swindled their Indian trading partners. These traders used rigged scales and other means to cheat their customers, physically abused their clients, and provided alcohol to the Indians in order to render them too drunk to realize they were being conned. Because the fur trade was based on the credit system, in which European traders supplied goods on credit that would be covered by later payments in furs, many Indian individuals and families amassed debts that they could never pay. In some cases, traders kidnapped family members of indebted Indians and sold them into slavery to pay off the debts. Actions like these provoked violent rebellions such as the Yamasee War of 1715–1717, in which most of the tribes in the Southeast revolted against the colonial traders and nearly destroyed the colony of South Carolina. In other cases, the colonial governments demanded that a tribe surrender land to pay its accumulated fur trade debts. During his administration, President Thomas Jefferson quietly embraced this colonial strategy and encouraged William Henry Harrison, the governor of the Indiana Territory, to use it to secure Indian land cessions in the region.

American Trading

The fur trade was centered along the Mississippi River and its tributaries during the mid- to late 1700s. After the defeat of the French in 1763, American hunters and fur traders began to cross the Appalachian Mountains. Daniel Boone,

for example, took men through the Cumberland Gap into Kentucky, which was a fur trader's paradise. The greatest center of trade after the French and Indian War was in St. Louis. Founded by Pierre Laclede and August Choteau in 1763 and 1764, the town was on the western shores of the Mississippi River just below its confluence with the Missouri River. By the time the United States acquired Louisiana from France in 1803, St. Louis was a trading hub where merchants, French *voyageurs*, Indian traders, and American hunters and trappers met. The leading fur traders in the town were the French Chouteau family and Manuel Lisa, a Spanish entrepreneur from New Orleans.

It was in St. Louis that Meriwether Lewis and William Clark prepared for their journey up the Missouri River in 1804. Their expedition traveled across the Continental Divide and down the Columbia River, then back to St. Louis, between 1804 and 1806. Along the way they discovered which tribes would make good trading partners, where the best trading posts should be located, which Frenchmen were available to act as interpreters and guides for traders, and which regions offered the best furs. One of Lewis and Clark's men, John Colter, became a well-known and well-traveled mountain man, trapper, and fur trader after he departed from Lewis and Clark in 1806 on their return journey. In 1807 Colter joined Manuel Lisa's new fur company in present-day Montana. Lisa's company sent explorers in different directions to exploit the fur trade. One explorer, Ezekiel Williams, journeyed from the southern Rockies down the Arkansas River, opening the fur trade in the southern Louisiana Territory. Meanwhile George Drouillard, another of Lewis and Clark's men, explored the fur country of the Rocky Mountains.

The greatest source of furs was the lands west and north of the Great Lakes. To exploit this vast resource, and to try to establish an American presence in the Canadian fur trade, which had long been dominated by the Hudson's Bay Company and the Northwest Company, John Jacob Astor created the Pacific Fur Company as a subsidiary of his American Fur Company. Using several bases of operations, such as St. Louis and Mackinac Island (where lakes Superior, Michigan, and Huron meet), Astor sent expeditions west beginning in 1810. One expedition, led by Wilson Price Hunt, departed Mackinac Island and proceeded by canoe southwest to Green Bay, where it traveled up to reach the Fox River. From the Fox, the expedition made a brief portage to the Wisconsin River, eventually meeting the Mississippi River near the trading center of Prairie du

Chien. The Pacific Fur expedition then descended the Mississippi to St. Louis. There Hunt and his men wintered, in the spring loading pirogues for the ascent of the Missouri in March 1811. The expedition included the most famous fur traders of the age: Hunt; two leaders of the Pacific Fur Company, Ramsay Crooks and Donald McKenzie; John Colter; and Pierre Dorion, a Frenchman who had been a guide for Lewis and Clark. Their immediate destination was Fort Mandan in North Dakota, where Lewis and Clark had spent their first winter in 1804–1805. Mandan was a bustling trade center, where French, Canadian, and American trappers and traders met to purchase supplies, camp, and share stories of the trail. Hunt's expedition halted here while its members made plans for an overland route to the Pacific coast. Eventually, they established a trading post called Fort Astoria at the mouth of the Columbia River.

Upon the ratification of the Constitution in 1789, the federal government began to oversee trade with foreign countries and Indian tribes, and in 1790 Congress began passing trade and intercourse acts. Responsibility for overseeing trade with Natives fell to the secretary of war, who tried to use licensing and bonding requirements to regulate American entrepreneurs who traded furs with the Indians. Traders who violated federal law were subject to stiff penalties, but in some areas there was not a sufficient federal presence to guarantee enforcement. In 1796 the government established the factory system, a series of trading establishments across Indian Country where Natives bought goods at cost and sold furs to federal agents. The limited number and isolation of these factories encouraged abuses by independent traders, who ran a black market fur trade and often provided intoxicating liquors to Indians. Private firms such as the American Fur Company, angry that the government held a monopoly over the fur trade, convinced Congress to abandon the factory system in 1822.

In the 1820s the Office of Indian Affairs was established within the War Department to supervise Indian issues, including trade. However, dishonest and unlawful dealings by American traders continued to cause unrest with the Indian tribes, just as in the colonial era. Proponents of Indian removal argued that relocation across the Mississippi River would distance the eastern tribes from the influence of these unsavory characters. Even after removal, however, regulating the fur trade remained a constant source of concern for the U.S. government, until the business declined as a primary source of economic interaction with Indians over the course of the nineteenth century. The fur trade disappeared with the coming of the Industrial Revolution, as factories began to produce inexpensive quality cloth, thereby displacing the demand for beaver pelts, bear skins, and buffalo robes.

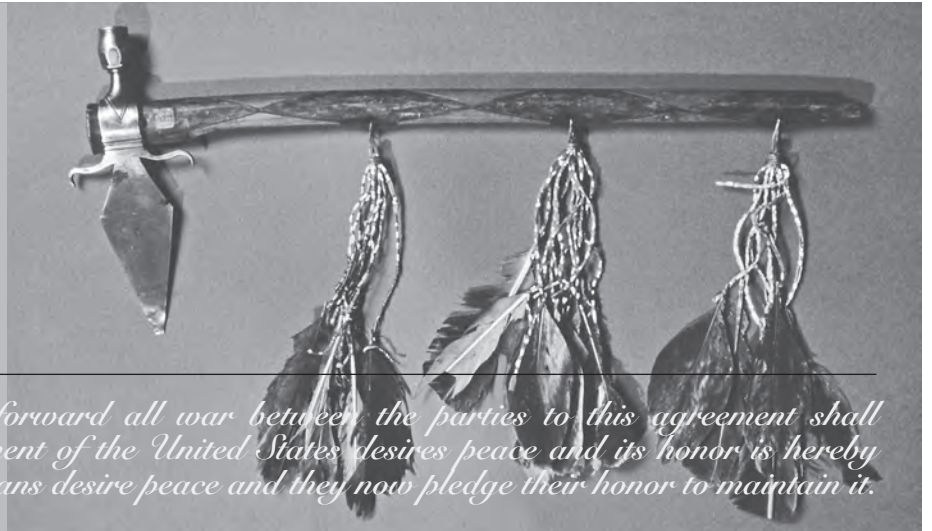
See also *Alcohol; American Fur Company; Boone, Daniel; Factory System; Great Britain, Indian Policy of; Fishing, Hunting, and Gathering Rights; France, Indian Policy of; Indian Trade, Regulating; Lewis and Clark Expedition; Spain, Indian Policy of; Trade and Intercourse Acts; U.S. Indian Policy: Congress and the Executive, 1775–1803; U.S. Indian Policy: Congress and the Executive, 1803–1848; Westward Migration.*

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BIBLIOGRAPHY

- Bradbury, John. *Travels in the Interior of America*. London: Sherwood, Neely, and Jones, 1819.
- DeVoto, Bernard, ed. *The Journals of Lewis and Clark*. Boston, Mass.: Houghton Mifflin, 1953.
- Goetzmann, William H. *New Lands, New Men: America and the Second Great Age of Discovery*. New York: Penguin Books, 1987.
- Lawson, Russell M. *The Land between the Rivers: Thomas Nuttall's Ascent of the Arkansas, 1819*. Ann Arbor: University of Michigan Press, 2004.
- Prucha, Francis Paul. *American Indian Policy in the Formative Years*. Lincoln: University of Nebraska Press, 1962.

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Article 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they now pledge their honor to maintain it.

Gaines, Edmund P.

Edmund Pendleton Gaines (1777–1849) was a noted American army officer who held the post of Indian commissioner in the Southeast following the War of 1812 (1812–1814). He also served in the First and Second Seminole Wars (1817–1818 and 1835–1842, respectively) and the Black Hawk War of 1832.

After serving in the War of 1812, during which he reached the rank of brigadier general, Gaines was appointed Indian commissioner in 1817 and given command of the army's southern district. During this time, Gaines began negotiations with the Creek Indians and sought to exert control over the Seminoles in eastern Florida. Violence between the white settlers and the Seminoles was frequent, and settlers were accusing the Seminoles of harboring runaway slaves. Gaines dispatched troops from Fort Scott, Georgia, against the Seminole village of Fowltown. This attack helped start the First Seminole War.

Gaines was assigned to command the army's Western Department in 1821. He negotiated the agreement with the Mesquaki leader Black Hawk that ended the Black Hawk War. During the Second Seminole War, Gaines led troops to Tampa Bay and fought three small, inconclusive battles with Osceola. Gaines's efforts were unauthorized, and led to a bitter dispute with General Winfield Scott. Gaines went on to participate in the U.S.–Mexican War (1846–1848) and command the army's Eastern Department before his death on June 6, 1849.

See also *Black Hawk; Black Hawk War (1832); First Seminole War; Osceola; Scott, Winfield; Second Seminole War.*

Leonard J. Sadosky

BIBLIOGRAPHY

Silver, James W. *Edmund Pendleton Gaines: Frontier Soldier*. Baton Rouge: Louisiana State University Press, 1949.

Gallatin, Albert

Albert Gallatin (1761–1849) was a prominent federal official of the early Republic period who had a long-standing scholarly interest in Native American language and culture. In his various governmental positions, Gallatin supported plans aimed at educating and assimilating the Native population.

After a career serving in the Pennsylvania House of Representatives, the U.S. House of Representatives, and as secretary of the Treasury from 1801–1814, Gallatin went to Russia in 1814 as part of a commission that sought a peace treaty to end the War of 1812 (1812–1814) between the United States and Great Britain, at which time he had to deal with the British demand to create a permanent Indian reservation in the Old Northwest. The demand was dismissed and not included as part of the final treaty.

Throughout his public career, Gallatin drew upon government contacts with Indians and tribal delegations to further his research in Native American language and culture, and received information on Native culture from Indian agents and explorers such as Lewis Cass and William Clark. Gallatin's research resulted in two publications, *A Table of Indian Languages of the United States* in 1826 and *Synopsis of Indian Tribes of North America* in 1836. Gallatin felt that the Indians of North and South America were linguistically and culturally related, had common ancestors from Asia, and were not the descendants of any European or Judaic society. He founded the American Ethnological Society with John

Russell Bartlett in 1842. Gallatin died on August 12, 1849, in Astoria, New York.

See also *Articles of Confederation*; *Cass, Lewis*; *Clark, William*; *Constitution, U.S.*; *Ghent (1814), Treaty of*; *War of 1812*.

James E. Seelye Jr.

BIBLIOGRAPHY

- Adams, Henry. *The Life of Albert Gallatin*. Whitefish, Mont.: Kessinger Publishing, 2007.
- Hickey, Donald R. *The War of 1812: A Forgotten Conflict*. Urbana: University of Illinois Press, 1995.
- Smelser, Marshall. *The Democratic Republic, 1801–1815*. Long Grove, Ill.: Waveland Press, 1968.
- Walters, Raymond. *Albert Gallatin: Jeffersonian Financier and Diplomat*. New York: Macmillan, 1957.

Gaming

Gaming has historical sacred and social significance in Native American culture. Bone dice and moccasin singing contests were incorporated into traditional religious and ceremonial rituals. Tribal social events around festivals, powwows, and potlatches were occasions for recreational diversions and included games of chance such as dice and sticks and the wheel, as well as games of dexterity, such as the hoop and pole, archery, and horse races. Gaming also was essential to tribal economies. Wagering games transferred personal belongings such as clothing, food, weapons, and horses needed for subsistence living, while social gaming encouraged

personal contacts and trading with other Indian communities, thus extending a tribe's political and economic influence.

Indian gaming in the early twenty-first century often is referred to as the new buffalo for Native Americans because it has provided tribes the economic means to achieve self-sufficiency, much like the buffalo abundantly provided for the Plains tribes' subsistence needs many generations ago. The devastating consequences of the failed federal removal, reservation, and allotment policies left most tribal reservations impoverished and tribal governments wholly dependent on federal assistance. Gaming has brought desperately needed revenue to Indian reservations, which has allowed tribal governments to provide essential services to tribal members and families, such as employment, health care, housing, and education. Indian gaming is currently a \$23 billion business, with more than 225 tribal governments operating 391 gaming facilities in twenty-eight states. These gaming operations are governed by the Indian Gaming Regulatory Act of 1988 (IGRA), a federal law enacted in response to the decision of the United States Supreme Court in *California v. Cabazon Band of Mission Indians* (1987), which held that neither state nor county governments have authority to regulate gaming activities on Indian reservations.

California v. Cabazon Band of Mission Indians

In the late 1970s and 1980s, against the backdrop of dire poverty and limited economic opportunities, tribes began

Members of the Colville Confederated Tribes gather outside a courthouse to pressure federal officials not to seize slot machines from reservation casinos. Gaming has a long history in Native nations. Its contemporary manifestation in casinos serves as a means of self-sufficiency.



operating high-stakes bingo and card games, packing their reservation bingo halls with non-Indians. Tribes were immediately challenged by county sheriffs and state law enforcement officials who threatened to arrest anyone playing bingo or cards in their gaming halls. Most state laws prohibited bingo games unless they were conducted by charitable organizations in compliance with defined conditions of operation. Relying on the general rule that state laws do not apply to Indian tribes on reservations except where Congress expressly makes them applicable (the plenary power doctrine), tribes sought protection from state prosecution.

The issue to be resolved by the court was whether the state law was criminal or civil in nature. If it was criminal and prohibited gaming, state law would apply through a federal law commonly called Public Law 280, which granted certain states, including California and Minnesota, authority to exercise broad criminal and limited civil jurisdiction on Indian reservations. Public Law 280 did not extend state regulatory or civil authority over tribes and reservation activities since subjecting internal tribal matters to state regulation would result in the destruction of tribal institutions and values.

In its first decision concerning the applicability of state gaming laws to tribes, *California v. Cabazon Band of Mission Indians* (1987), the U.S. Supreme Court explained that if state law prohibits certain conduct, it falls within Public Law 280's grant of permissible criminal jurisdiction. If state law permits an activity, even though it may be subject to regulation or even misdemeanor penalties, it is an impermissible regulatory law. The Supreme Court concluded that California laws regulated rather than prohibited gaming. It further found that since the state was involved in a substantial amount of gaming activity, such as the state-operated lottery, horse race betting, and bingo games, the tribal gaming activities did not violate the state's public policy. Finally, the Court determined that state jurisdiction over tribal gaming activities was otherwise preempted by the strong federal and tribal interests in promoting economic development and self-determination on reservations.

IGRA

During the late 1980s many tribes and the Bureau of Indian Affairs (BIA) began to realize the tremendous economic potential of tribal gaming. Federal policy formally supported tribal bingo operations as appropriate means by which tribes could achieve economic self-sufficiency, and tribes began moving beyond bingo to casino-style gaming. Federal and state governments raised concerns about this heightened

activity, particularly about the need for regulation, oversight of tribal financial and management arrangements, and the possibility of organized crime infiltration. When Congress began holding hearings on Indian gaming in 1984, the discussions centered on the games that would be regulated by tribes, such as bingo, and the extension of state jurisdiction to all other forms of gaming. After the *Cabazon* decision, Congress moved swiftly to enact legislation establishing a federal statutory basis for the operation and regulation of Indian gaming.

Sponsored by Senator Daniel Inouye, chair of the Senate Select Committee on Indian Affairs, and Senator Daniel Evans of Washington, the Indian Gaming Regulatory Act (IGRA) of 1988 has three main provisions: the classification of gaming with varying levels of regulatory oversight, the establishment of the National Indian Gaming Commission (NIGC), and the compacting process through which tribes and states determine the scope and regulation of casino-style gaming. Although the IGRA's stated purpose is to promote tribal economic development, self-sufficiency, and strong tribal governments, the act also provides a significant state role in regulating gaming activities on Indian lands. An obviously hurried legislative compromise, the IGRA raised concerns among both the tribes, who regarded the act as a serious compromise of tribal sovereignty, and the states, which sought authority to regulate all gaming activities within their borders.

Gaming Tribes and Indian Lands

The IGRA applies to gaming activities of federally recognized Indian tribes on Indian lands. The IGRA defines Indian lands as those within a reservation and individual or tribal trust lands over which the tribe exercises governmental power. The act prohibits gaming on lands away from the tribe's reservation that were acquired by the secretary of the Department of the Interior for the tribe after 1988. Excepted from this prohibition are lands within, or touching, the tribe's existing reservation; lands for initial reservations for newly recognized tribes or restored lands of restored tribes (with the exception of the Catawba tribe of South Carolina); and lands acquired in settlement of land claims (with the exception of the Penobscot and Passamaquoddy tribes in Maine, the Narragansett tribe of Rhode Island, and the Ysleta del Sur Pueblo of Texas). Acquired trust lands qualify as restored if they have cultural or historical significance to the tribe and were within land it formerly ceded.

The IGRA allows gaming on newly acquired Indian lands provided the secretary, after consultation with appropriate tribal, state, and local officials, approves such gaming and determines that it would be in the best interest of the tribe and its members, and would not be harmful to the surrounding community. The governor of the state must concur with the secretary's decision.

Classification and Regulation of Indian Gaming

Indian gaming is classified according to the type of game and its corresponding regulation. Class I gaming consists of social and traditional games and is regulated exclusively by tribes. Class II gaming includes bingo and other games of chance such as lotto, pull-tabs, punch boards, tip jars, instant bingo, and games similar to bingo. Bingo games may be conducted with electronic, computer, or other technological aids. The IGRA specifically excludes electronic or electromechanical facsimiles of any game of chance and slot machines from Class II gaming. Poker and other nonbanking card games (where players play against each other and not the house) are permissible under Class II unless they are specifically prohibited by state law. A tribe may conduct Class II gaming if the state in which the tribe is located permits such gaming for any purpose by any person, organization, or entity, and the governing body of the tribe adopts a gaming ordinance which is approved by the chair of the NIGC. Class II gaming is subject to regulation by tribes and the NIGC. States have no role in the regulation of Class II gaming.

Class III gaming, or casino-style games, includes all other types of gaming such as banked card games (where players play against the house and not just each other), roulette, craps, blackjack, slot machines, pari-mutuel wagering, and jai alai. Electronic games, such as video poker, are considered Class III games. A tribe may conduct Class III gaming if the state in which the tribe is located permits such gaming for any purpose by any person, organization, or entity; the tribe and the state have negotiated a compact which has been approved by the secretary; and the tribe has adopted an ordinance which has been approved by the chair of the NIGC. Class III has become the most important and lucrative type of gaming for tribal gaming operations.

The Compacting Process

The IGRA sets out a formal process and specific time frames for negotiating a Class III gaming compact, a legal agreement establishing the types and regulation of games offered at a tribal gaming facility. A tribe initiates the compacting

process by submitting a notice and request to the state to negotiate a compact. After the parties conclude their negotiations, they present the proposed compact to the secretary of the interior, who has forty-five days to approve or disapprove it. The secretary may disapprove a compact if it violates the IGRA, any other federal law, or the trust obligation of the United States to Indians.

The act does not require states to enter into compacts with tribes, only that they negotiate in good faith. The IGRA also does not require states to negotiate with tribes over gaming activities that are prohibited under state law. If a state refuses to negotiate or does not negotiate in good faith, Congress authorizes tribes to bring suit in federal district courts. A court can compel a state to negotiate a tribal gaming compact. In determining whether a state has negotiated in good faith, the court considers the public interest, public safety, and the adverse economic impacts on existing gaming operations. If the court finds that the state has failed to negotiate in good faith, it may order the parties to conclude a compact within sixty days. In the event a compact is not subsequently reached, the parties then submit their last best offers to a court-appointed mediator who then selects the compact that most agrees with the IGRA. The state has sixty days to accept the compact selected by the mediator. If the state refuses to accept the compact, the mediator notifies the secretary of the interior who, after consulting with the tribe, prescribes procedures consistent with the compact selected by the mediator, thus allowing the tribe to conduct Class III gaming.

In 1996 the provision in the IGRA granting federal courts jurisdiction over states was found to violate the Eleventh Amendment to the U.S. Constitution. In *Seminole Tribe of Florida v. Florida*, the Supreme Court held that the Indian Commerce Clause does not grant Congress the power to abrogate (abolish) the states' sovereign immunity from suit. This ruling left tribes without any judicial remedy if states refused to negotiate Class III compacts or negotiated in bad faith. However, when a state raises its Eleventh Amendment immunity from suit, tribes may obtain secretarially prescribed Class III gaming procedures pursuant to the judicial bypass process discussed above and regulations issued following the Supreme Court's decision in *Seminole Tribe*. Only two tribes operate gaming facilities pursuant to such procedures, the Mashantucket Pequot tribe of Connecticut (1991) and the Northern Arapahos of the Wind River reservation in Wyoming (2006).

Tribal-State Compacts

Tribal-state compacts deal with specific areas of interest related to public safety and regulation of gaming set out in the IGRA, such as licensing key employees, establishing and enforcing standards of operation and management, and auditing the tribe's gaming revenues. Nongaming activities also may be addressed in compacts, such as the sale and distribution of alcoholic beverages and taxation of cigarettes and other commercial and entertainment-related transactions within the tribal gaming facility. Tribes bear the cost of this state regulation through fees assessed in the compact.

The IGRA requires that compacts define rights and remedies for the breach of the compact. Some states and tribes have provided limited waivers of sovereign immunity for certain legal actions. A compact takes effect when notice of its approval by the secretary is published in the *Federal Register*.

Tribal Gaming Ordinances

Before any gaming may be conducted on Indian lands, a tribe must enact a law or ordinance providing for the regulation of its gaming activities. The chair of the NIGC will approve a tribal gaming ordinance if it provides that: 1) the tribe will have the sole proprietary interest in the gaming operation; 2) net revenue from tribal gaming operations will be used to fund tribal government operations, provide for the general welfare of tribal members, promote economic development, donate to charitable organizations, or help fund local government agencies; 3) annual outside audits of the gaming operations will be submitted to the NIGC; and 4) there is an adequate system for conducting background investigations on key employees and primary management officials, issuing licenses, and notifying the NIGC of the investigation results.

Tribal gaming laws are further supported by other laws dealing with commercial activities and civil actions arising from, or occurring within, the gaming facilities. Tribal regulations also govern gaming, environmental, and health and safety issues. Tribal courts exercise extensive jurisdiction over disputes concerning contracts for goods and services, personal injury claims, and employment and labor issues, and have authority to render legal and equitable remedies.

National Indian Gaming Commission

The IGRA established the National Indian Gaming Commission, an independent federal regulatory agency within the Department of the Interior. The NIGC has

authority to conduct background investigations on key employees involved in Indian gaming activities, audit tribal gaming operations, undertake enforcement actions such as assessing civil fines, issuing closure orders, and reviewing tribal gaming ordinances. Tribes are assessed fees to pay the cost of the NIGC's regulation.

The NIGC set forth extensive standards on Class III gaming operations that are stricter than those provided in most tribal-state compacts. A recent federal appellate court decision held that the IGRA restricts the NIGC's regulatory authority to Class II gaming only and that the NIGC lacked authority to impose the standards.

Management Contracts

Tribes usually seek management assistance for the operation of their tribal gaming facilities. To ensure that tribes are the principal financial beneficiaries of these agreements, the IGRA requires their approval by the chair of the NIGC. Management contracts must contain several provisions, including adequate accounting procedures, consent to tribal access to the gaming operations to verify the daily revenues and income, minimum guaranteed payments to the tribe with preference over the retirement of development and construction costs, a ceiling for the repayment of debt that does not exceed a maximum term of seven years, and grounds and procedures for terminating the agreement.

Management fees may be based on the revenues of the gaming operation if the NIGC chair finds that the fee is reasonable, generally up to a maximum of 30 percent of net gaming revenue. A 40 percent fee may be approved if the chair is satisfied that the management company's capital investment and the income projection for the tribal gaming operation justify the higher percentage. The decision of the chair to approve a management contract may constitute a major federal action significantly affecting the quality of the human environment. Accordingly, these contracts generally are not approved until the environmental assessment requirements established by the National Environmental Policy Act are addressed.

To avoid the lengthy and intrusive review process, management contracts often are drafted under a different guise with overlapping terms and relationships, such as an equipment lease, or a financing, development, consultant, or employment agreement. The failure to submit a management contract for approval may result in an enforcement action and a tribe may recover fees paid without an approved contract.

Enforcement

Unlawful operation of Class III gaming without an approved compact, or conducting Class II gaming in violation of NIGC regulations, are punishable by federal criminal laws that extend all state laws pertaining to gaming, including criminal laws, into Indian Country. Enforcement in states with exclusive federal criminal jurisdiction is made through the Organized Crime Control Act, which prohibits operation of a gambling business in violation of state law, and the Johnson Act, which prohibits gambling devices on Indian land. The IGRA expressly excepts the Johnson Act to Class I gaming, Class II gaming regulated by the NIGC, and Class III gaming activities conducted pursuant to an approved tribal-state compact.

The IGRA allows a tribe or state to enjoin Class III gaming activity conducted in violation of a tribal-state agreement. Although the IGRA waives tribal sovereign immunity for such suits, it does not allow the state to enjoin Indian gaming conducted without a compact, which would impermissibly extend state regulatory authority into Indian Country. The IGRA does not allow an individual to sue a tribe or a tribal officer. For example, a management company or a private citizen cannot bring a legal action against a tribe alleging a violation of the IGRA. The IGRA generally preempts the field of Indian gaming law so that claims relating to the tribal gaming operation, particularly management contracts, raise a federal question for purposes of court jurisdiction. Finally, unless specifically provided in a compact, tribal gaming information obtained by states through their regulatory activity is not protected under state public records laws.

Gaming Revenue

Tribal gaming is the primary revenue source to fund essential governmental services for many tribal governments. Tribes use gaming revenue for specific governmental operations and reservation infrastructure. Reservations are being transformed with new community centers, schools, health care facilities, roads, and houses. Many tribes devote gaming revenue to programs that protect and restore their traditional culture and languages, and they share their wealth with other tribes through social gatherings, powwows, financial arrangements. Tribal members may receive individual distributions of gaming revenue through per capita payments. Per capita distributions must be part of a tribal revenue allocation plan approved by the secretary of the interior and are

subject to federal income, the Federal Insurance Contributions Act (FICA), and social security taxes.

The National Gambling Impact Study Commission, established by Congress in 1996, has reported numerous positive impacts of Indian gaming on tribal economic well-being and in local and regional economies.

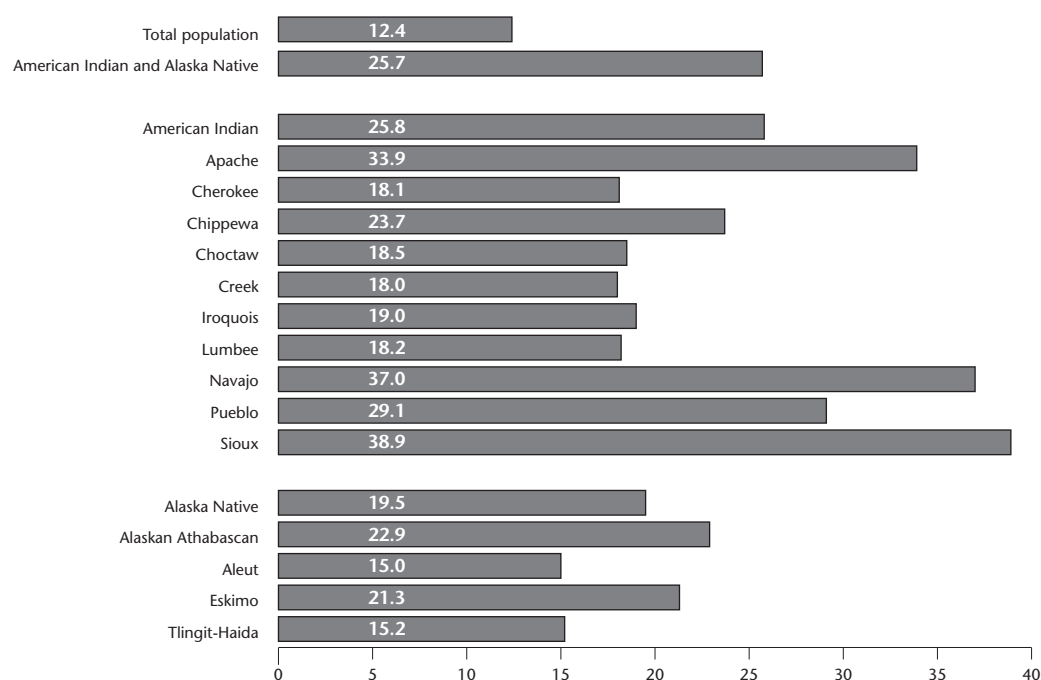
Revenue Sharing Agreements

A revenue sharing agreement is a commitment from a tribe to pay a portion of its gaming revenue to the state in exchange for the right to conduct casino-style games or for more gaming machines and sometimes for the exclusive right to conduct gaming. Some revenue sharing agreements provide for payments in lieu of taxes for lands taken into trust and for costs associated with local or regional services such as road maintenance. Revenue sharing agreements are controversial because tribes consider gaming an inherent legal right; they believe they should not have to “pay to play.” While the IGRA does not address revenue sharing agreements, it expressly prohibits taxing tribal gaming operations. Moreover, states are compensated for their regulatory costs through tribal-state compacts.

States increasingly are asserting political leverage over tribes by insisting on a share of gaming revenue. In the first revenue sharing agreement, signed in 1992, the Mashantucket Pequot tribe agreed to pay Connecticut 25 percent of its slot revenues in exchange for the exclusive right to operate slot machines in the state. In California, over sixty tribes participate in a unique revenue sharing arrangement in exchange for the exclusive right to conduct casino-style gaming in the state. When such an agreement is part of a compact, the compact is deemed lawful only if the tribe obtains separate consideration for the revenue sharing provision.

Political Activities

Gaming revenue has allowed tribes to develop regional and national networks such as the California Indian Gaming Association and the National Indian Gaming Association. Tribes also participate in the political process at all levels of federal, state, and local government to protect their legal and financial interests. Since they lack formal representation in either Congress or state governments, tribes rely on lobbying efforts and campaign contributions to draw attention to their issues and concerns. While tribes have been criticized for using gaming profits to pursue political influence, some tribes have been politically exploited by criminally corrupt lobbyists such as Jack Abramoff and Michael Scanlon, who

FIGURE 1: Poverty, 1999

Note: Percent of specified group in poverty. Data based on sample. For information on confidentiality protection, sampling error, nonsampling error, and definitions, see www.census.gov/prod/cen2000/doc/sf4.pdf.

Poverty status was determined for everyone except those in institutions, military group quarters, or college dormitories, and unrelated individuals under 15 years.

Source: U.S. Census Bureau, Census 2000 special tabulation.

While gaming has become a lucrative financial resource for several tribes, it has failed to substantially reduce the poverty rate. Almost 26 percent of American Indians and Alaska Natives live in poverty, as compared to 12 percent of the total U.S. population.

were convicted for deceiving and swindling their tribal clients.

Social Costs

The remarkable success of tribal gaming has not been without social costs. Old problems with drug and alcohol abuse have increased and new issues with political in-fighting and membership disputes have erupted. Indian gaming also has fueled arguments over the legitimacy of tribal governments and sparked numerous tribal groups to seek federal recognition. While a few tribes reap huge financial benefits, many tribes barely make a profit. Although tribal sovereignty has been compromised beyond what Congress intended in the IGRA, gaming undoubtedly has served to restore and build stronger tribal governments and tribal economic self-sufficiency. It also has proven to be one of the most innovative

ways to develop stronger and more cooperative tribal-state relations.

See also California v. Cabazon Band of Mission Indians (1987); *Indian Gaming Regulatory Act of 1988*; *National Indian Gaming Commission*; *Plenary Power Doctrine*; *Public Law 280*; *Seminole Tribe of Florida v. Florida* (1996).

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BIBLIOGRAPHY

- Cornell, Steven, Joseph Kalt, Matthew Krepps, and Jonathan Taylor. *American Indian Gaming Policy and Its Socio-Economic Effects: A Report to the National Gambling Impact Study Commission*. Cambridge, Mass.: Economics Resource Group, 1998.
- Deloria, Vine, Jr., and Clifford M. Lytle. *The Nations Within: The Past and Future of American Indian Sovereignty*, 2d ed. Austin: University of Texas Press, 1998.
- Fromson, Brett D. *Hitting the Jackpot: The Inside Story of the Richest Indian Tribe in History*. New York: Atlantic Monthly Press, 2003.

- Gabriel, Kathryn. *Gambler Way, Indian Gaming in Mythology, History and Archeology in North America*. Boulder, Colo.: Johnson Books, 1996.
- Indian Gaming Regulatory Act, Public Law 100-497, 100th Cong., 2d sess. (October 17, 1988).
- Light, Steven Andrew, and Kathryn R. L. Rand. *Indian Gaming and Tribal Sovereignty, The Casino Controversy*. Lawrence: University Press of Kansas, 2005.
- National Gambling Impact Study Commission. *Final Report*, June 18, 1999, <http://govinfo.library.unt.edu/ngisc/reports/finrpt.html>.
- National Indian Gaming Commission, *Gaming Revenue Reports*, www.nigc.gov/TribalData/tabid/67/Default.aspx.
- Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005.
- Pommersheim, Frank. *Braid of Feathers: American Indian Law and Contemporary Tribal Life*. Berkeley: University of California Press, 1995.
- Taylor, Jonathan B., Matthew B. Krepps, and Patrick Wang. "The National Evidence on the Socioeconomic Impacts of American Indian Gaming on Non-Indian Communities," April 2000, www.hks.harvard.edu/hpaied/docs/PRS00-1.pdf.
- Wilkinson, Charles F. *American Indians, Time, and the Law*. New Haven, Conn.: Yale University Press, 1987.

Gates, Merrill E.

Merrill E. Gates (1848–1922) worked as a distinguished educator, serving as the principal of the Albany Academy and later as the president of Rutgers University (1882–1890) and Amherst College (1890–1899). During the late nineteenth century, he became an important leader of the Indian reform movement. In 1884 he was appointed by President Chester Arthur to the Board of Indian Commissioners, an organization established to reform the corruption in the Indian administration and to provide advice on Indian policy. Gates served as president of the board from 1890–1899 and as secretary from 1900–1911. For a number of years, Gates was chosen to preside over the Lake Mohonk Conference of Friends of the Indian.

In speeches, Gates advocated “civilizing” Indians and making them citizens of the United States. A deeply religious man, he believed in the brotherhood of man and promoted the idea that Indians were not inferior or inherently different from other human beings. Gates believed that the first step towards assimilating Indians was destroying tribal society and the Indian reservation. Living on reservations, Gates insisted, allowed Indians to remain dependent on government subsidies, to maintain a hunter and gatherer subsistence, and to continue to practice “savage” customs such as polygamy and Native religions. He promoted the breakup of tribal society and the individualization of Indians through Christianization, American-style education, and the allotment of tribal lands.

See also *Assimilation and Acculturation; Board of Indian Commissioners; Lake Mohonk Conferences.*

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BIBLIOGRAPHY

- Prucha, Francis Paul. *Americanizing the American Indians: Writings by the “Friends of the Indians,” 1880–1990*. Cambridge, Mass.: Harvard University Press, 1973.

General Allotment Act (Dawes Act) of 1887

The 1887 General Allotment Act, also known as the Dawes Act, authorized the president to select reservations to undergo allotment in severalty, the process of dividing collectively held lands into individually owned parcels.

The practice of awarding or assigning individual tracts of land to Indians was not new. The U.S. government had granted parcels of land to Indians who helped secure land cessions, and it had provided individual lands for Indians who resisted removal. Treaties beginning in the 1850s often contained provisions allowing the survey of lands and assignment of individual allotments. Not until the 1880s, though, did the idea of universal allotment of Indian lands gain widespread support.

Some tribes lobbied for allotment, seeing it as a means to forestall removal and secure their title to reservation lands. The Omaha tribe in Nebraska and the Umatilla bands in Oregon both succeeded in obtaining allotment legislation for their reservations in 1882 and 1885, respectively. Other tribes, such as the Seneca Nation of New York, fought against allotment legislation. The Seneca argued that they were adequately “Americanized” under their system of common land tenure.

The Senate passed general allotment legislation at nearly every session between 1879 and 1886, but the House deferred debate on the issue until late 1886. By this time, seemingly dissimilar interest groups—humanitarian reformers and western developers—had agreed that allotment in severalty was the solution to the so-called Indian Problem. Self-described “Friends of the Indian” believed that owning private property would transform Indians into self-sufficient farmers and help them assimilate into the American mainstream. At the same time, advocates of economic growth saw Indian reservations as a barrier to American progress and wanted to open up those lands and resources to development. Allotment legislation offered them the promise that

land not needed for allotments would be opened to non-Indians for purchase.

Senator Richard Coke of Texas introduced the first general allotment legislation in 1879 and introduced bills at each session until 1884, when Senator Henry L. Dawes of Massachusetts joined Coke in proposing the legislation. Dawes soon assumed control over the allotment campaign, and Coke's role has been largely forgotten. Dawes, a member of the Boston Indian Citizenship Association and chair of the Senate Committee of Indian Affairs, was a vocal proponent of Indian assimilation and allotment in severalty. Senator Henry Teller of Colorado opposed the Coke bill, arguing that many tribes were not prepared for individual land ownership. Teller became secretary of the interior in 1882, but even from that position he was unable to stop the legislation.

President Grover Cleveland signed the General Allotment Act on February 8, 1887. The legislation authorized the president, at his discretion, to select a reservation to be surveyed and allotted in severalty. The allotments would be held in trust for the individual Indians for a period of twenty-five years. Upon receiving a parcel, the allottee became a citizen of the United States. Once the allotment process on a reservation was complete, the president could negotiate with the tribe for purchase of unallotted—or “surplus”—lands and open those lands to settlement. The Dawes Act also provided that Indians not residing on reservations could take allotments on the public domain. The five major tribes from the Southeast in the Indian Territory (Cherokees, Chickasaws, Choctaws, Creeks, and Seminoles) were among those exempted from the original legislation, but the Curtis Act extended allotment to them in 1898.

Some tribes successfully resisted allotment in severalty, while others asked the government to allot their reservations, seeing it as a way to gain firmer control of their lands. When Indians selected allotments, they did so with their own cultural and economic needs in mind, which did not always align with the government's agrarian, assimilationist agenda.

By 1934, when the Dawes Act was overturned, 118 of 213 reservations had undergone allotment, resulting in over forty million acres of allotments and over twenty million acres of surplus lands opened to non-Indians. Amendments to the Dawes Act made it possible for Indians to lease and ultimately to sell their allotments. These included the 1906 Burke Act, which authorized the secretary of the interior to issue a fee patent to “any Indian allottee [who] is competent

and capable of managing his or her affairs,” before the normal twenty-five year trust period on an allotment expired. According to a 1934 report on Indian land tenure, economic status, and population trends, the Indian land base shrank from about 140 million acres (which included the acreage of reservations at their creation plus any acquisitions) to about 52 million acres in 1934. That reduced figure included 22.7 million acres opened to settlement and 23.2 million acres of allotments.

Ultimately, the Dawes Act failed in its goal of assimilating Indians, in part because of these amendments and in part because Indians found other ways to adapt to the expansion of the American marketplace economy into their homelands. However, the act's undermining of tribal land bases, particularly through opened surplus lands and allotments, damaged Indians' economic well-being and, in some cases, disrupted cultural practices.

See also *Burke Act*; *Curtis Act*; *Dawes, Henry L.*; *Teller, Henry M.*; *U.S. Indian Policy: Congress and the Executive, 1871–1934.*

Emily Greenwald

BIBLIOGRAPHY

- Carlson, Leonard A. *Indians, Bureaucrats, and Land: The Dawes Act and the Decline of Indian Farming*. Westport, Conn.: Greenwood Press, 1981.
- Foster, Morris W. *Being Comanche: A Social History of an American Indian Community*. Tucson: University of Arizona Press, 1991.
- Greenwald, Emily. *Reconfiguring the Reservation: The Nez Percés, Jicarilla Apaches, and the Dawes Act*. Albuquerque: University of New Mexico Press, 2002.
- Kinney, J. P. *A Continent Lost, A Civilization Won: Indian Land Tenure in America*. Baltimore, Md.: Johns Hopkins University Press, 1937.
- McDonnell, Janet A. *The Dispossession of the American Indian, 1887–1934*. Bloomington: Indiana University Press, 1991.
- Meyer, Melissa L. *The White Earth Tragedy: Ethnicity and Dispossession at a Minnesota Anishinaabe Reservation, 1889–1920*. Lincoln: University of Nebraska Press, 1994.
- Otis, D. S. *The Dawes Act and the Allotment of Indian Lands*. Norman: University of Oklahoma Press, 1973.
- Priest, Loring Benson. *Uncle Sam's Stepchildren: The Reformation of United States Indian Policy, 1865–1887*. New Brunswick, N.J.: Rutgers University Press, 1942.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.

Gerard, Forrest J.

Forrest J. Gerard (1925–), a member of the Blackfeet tribe, was born in Browning, Montana. He served as a technical sergeant during World War II (1939–1945) before graduating from Montana State College. Gerard served as commissioner of the Bureau of Indian Affairs (BIA) and later as an

assistant in the Senate Subcommittee on Interior and Insular Affairs. In 1977 the Jimmy Carter administration reorganized the BIA, and Gerard was appointed as the first assistant secretary of the interior for Indian affairs. He served in that capacity until 1981. His main priorities at the bureau were improving relationships between Native tribes and other governments, improving the delivery of services to Native groups, and ensuring that Native Americans kept the rights to their water.

Kevin Hogg

BIBLIOGRAPHY

"Interview with Forrest J. Gerard." *American Indian Journal*, vol. 5, no. 4 (1979): 11–18.

Geronimo

Geronimo (1829–1909; Gokhlayeh, Goyathlay), a Chiricahua shaman and war leader, resisted encroachment on his people's territory by conducting raids against settlers in Mexico and southern Arizona in the 1870s and 1880s. He was born and raised near the headwaters of the Gila River. His father was a Chiricahua Apache, and his mother, a

Bedonkohe Apache, had been a captive among the Mexicans.

As a young man, Geronimo fought under the Chiricahua Apache leader Cochise and Mimbreno Apache leader Mangas Colorados. He became known within the tribe for his skill and courage in battle. In 1858 a group of Mexican soldiers from Sonora killed Geronimo's wife, his mother, and his three children, and he spent the next several years engaged in revenge campaigns.

In 1872 Cochise agreed to end his war against the United States and move his people to a reservation at Apache Pass. Unwilling to surrender, Geronimo led attacks into Mexico for the next several years, escaping to the reservation for refuge. The United States responded to these attacks by closing the Apache Pass reservation and moving the Chiricahuas to San Carlos reservation in northern Arizona. Geronimo, however, took his supporters across the border into Mexico, where they continued to carry out raids against settlers. In 1877 the U.S. government arrested Geronimo and sent him to San Carlos.

In 1881 a Ghost Dance movement led by the prophet Noch-ay-del-klinne spread among the Apaches, and many of



Geronimo, right, stands armed with two Apache warriors. Both a shaman and a warrior, Geronimo spent much of his life exacting revenge against Mexico and evading capture by the U.S. government.

them left their reservations. While the U.S. Army sent most of the resisters back to their reservations, Geronimo and his followers evaded capture and continued to raid settlements. The forces of U.S. Army general George Crook, with the authority of the Mexican government, tracked Geronimo's men into Mexico. In 1884, after his Apache allies Chato, Juh, Loco, and others had been killed or captured, Geronimo returned to San Carlos. By this time Geronimo had become a well-known figure among his own people and to the U. S. government. In May 1885 Geronimo and approximately 150 supporters left the reservation, again with the intention of returning to the Sierra Madre in Mexico. Troops pursued the band, and on September 4, 1886, Geronimo surrendered to General Nelson Miles at Skeleton Canyon, some sixty-five miles south of Apache Pass.

Geronimo and hundreds of other Apaches were then transported in chains to Florida, where they were imprisoned. After one year, Geronimo and the captured Apaches were relocated to Mount Vernon Barracks in Alabama, where many of the prisoners died from tuberculosis and other diseases. Geronimo's followers accepted the Comanches' and Kiowas' offer to move to their reservation in the Indian Territory.

Geronimo attempted to become a farmer, dictated his memoirs, and joined the Dutch Reformed Church. He made public appearances at the national expositions in St. Louis and Omaha and in Theodore Roosevelt's 1905 president inaugural procession.

See also *Apache Wars (1860–1886)*; *Cochise*; *Crook, George*; *Mangas Colorados*; *Miles, Nelson A.*

Troy R. Johnson

BIBLIOGRAPHY

- Cozzens, Peter, ed. *Eyewitnesses to the Indian Wars, 1865–1890: The Struggle for Apacheria*. Mechanicsburg, Pa.: Stackpole Books, 2001.
- Geronimo. *Geronimo, His Own Story: The Autobiography of a Great Patriot Warrior*. Edited by S. M. Barrett. New York: Dutton, 1970.
- Roberts, David. *Once They Moved like the Wind: Cochise, Geronimo, and the Apache Wars*. New York: Simon & Schuster, 1993.
- Thrapp, Dan L. *The Conquest of Apacheria*. Norman: University of Oklahoma Press, 1967.

Ghent (1814), Treaty of

The Treaty of Ghent (1814) officially ended the War of 1812 (1812–1814) between the United States and Great Britain. The treaty is sometimes known as the Christmas Eve Treaty because it was signed on December 24, 1814. It is noteworthy

that the Battle of New Orleans, which garnered a great deal of military fame for future president Andrew Jackson, occurred after the treaty was signed. Due to slow communications, American and British forces involved were unaware the war had ended.

The United States sought peace early in the conflict. As early as June 18, 1812, the day war was officially declared, Secretary of State James Monroe summoned the British minister to inform him of the declaration and to urge him to work toward peace.

In March 1813 the Russian minister to the United States, Andrei Dashkov, told the James Madison administration he would help lead negotiations, though the British eventually rejected the use of the Russian intermediaries. Prior to this rejection, Madison chose three peace commissioners to send to Moscow: Treasury Secretary Albert Gallatin, American ambassador to Russia John Quincy Adams, and James Bayard of Delaware. The three arrived in Russia unaware that the British had already rejected the Russian proposal. In January 1814 Gallatin and Bayard left Russia after six months of nonnegotiations and traveled to London en route to the United States. They found the British willing to negotiate. A new peace commission was then formed that included Adams, Gallatin, Henry Clay, and Jonathan Russell.

Negotiations lasted from August 8, 1814, to December 24, 1814. The British wanted the Indian tribes on the western frontier of the United States to be protected in the peace settlement and called for the installment of a permanent barrier or reservation to be established for them in the Old Northwest. They also sought title to northern Maine and northern present-day Minnesota and wanted the United States to demilitarize the Great Lakes. The British were concerned about the safety of Canada, which was the focus of many of their demands, particularly the Indian buffer-zone.

The United States representatives rejected the British proposals. They were particularly upset with the Indian barrier, which they claimed undermined American sovereignty, national security, and plans for westward expansion. The British exchanged their demand of an Indian barrier for a pledge to restore the status of the Indians in the Old Northwest to their 1811 status, or before the Battle of Tippecanoe. The United States refused this proposal as well, and in October 1814 the British suggested that each side retain whatever territory it held at the end of the war. Again the Americans refused.

With the threat of another expensive year of overseas fighting ahead of them and still engaged in a war with

France, the British relented on their demands. The Treaty of Ghent restored the *status quo ante bellum*, or the state that existed before the war. Each side agreed to evacuate enemy territory and not carry off enemy property. In addition, each nation promised to make peace with the Indians and return to them possessions, rights, and privileges which they had enjoyed before the 1811 battle. A commission was established to answer questions about the Canadian-American border, and both nations promised to end the slave trade.

See also Gallatin, Albert; *Great Britain, Indian Policy of; War of 1812 (1812–1814)*.

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BIBLIOGRAPHY

- Hickey, Donald R. *The War of 1812: A Forgotten Conflict*. Urbana: University of Illinois Press, 1995.
- Smelser, Marshall. *The Democratic Republic, 1801–1815*. Long Grove, Ill.: Waveland Press, 1968.
- Stagg, J. C. A. *Mr. Madison's War: Politics, Diplomacy, and Warfare in the Early American Republic*. Princeton, N.J.: Princeton University Press, 1983.

Gifts

Anthropologist Marcel Mauss recognized that gifts often have a social as well as an economic context and that such exchanges are used to create and perpetuate the social and/or political ties necessary to convert an outsider from potential enemy to friend. Other anthropologists, such as Pierre Bourdieu, Jonathan Parry, and C. A. Gregory, extended this insight by differentiating between what the act of exchange means in capitalist versus precapitalist societies: a market exchange is a trade of commodities that establishes a relationship between the objects exchanged, whereas the gift exchange that characterizes precapitalist societies establishes a relationship between the partners engaged in the exchange. In a gift-oriented economy the goal is to expand social relations, while in a commodity-oriented economy the goal is to appropriate goods.

Therefore, gifts or presents—although often misinterpreted by Europeans as bribes—served the basic diplomatic purpose within Native American societies of transforming strangers (enemies) into kinfolk (allies). This was true whether this transaction took place between two hunters in the woods, between two Indian nations, or between Native and European nations. While the expansion of kinship for individuals meant an expansion of options for assistance should local conditions result in temporary problems with

the food supply, the expansion of kinship for leaders sometimes led to alliance networks for war and peace. Indeed, allied nations frequently used kinship terms such as brother, father, uncle, and grandfather among themselves and with various European and American envoys.

Although the act of exchange rather than the item or items exchanged was what created value, the physical present also reminded the individual of the reciprocal obligation the exchange created. This was particularly true in areas and time periods when wampum (strings of shell beads used for a number of ceremonial rituals, diplomatic protocols, and economic transactions) became scarce, eliminating the images woven with them that served to remind the leaders of the agreement terms. In the absence of wampum, leaders exchanged other gifts, such as pipes, to serve that purpose. Leaders used lesser gifts to redistribute among their people to gain support for various political positions.

Native Americans initially engaged in the fur trade according to their own expectations regarding gift exchange. As Europeans and, later, Americans increasingly pressed market valuation on these transactions, Native peoples had increasing problems with the trade and its meaning. In their cultural context, Natives continued exchange in an ongoing cycle with one party always obligated to the other—to completely balance out the exchange could potentially end the kin connection, which was its core value. However, as the trade became increasingly tied to the market, traders became more reluctant to extend credit to tribes, making the Indians more suspicious of the national entities those traders represented. The early United States, perceiving that American Indians would eagerly accept credits beyond their ability to pay in furs (and misinterpreting why the Indians did so), used this practice to leverage land sales from various tribal leaders.

See also *Fur Trade; Treaty Making: Protocols*.

Cary Miller

BIBLIOGRAPHY

- Mauss, Marcel. *The Gift: Forms and Functions of Exchange in Archaic Societies*. New York: W. W. Norton & Co., 1967.
- Miller, Cary. "Gifts as Treaties: The Political Use of Received Gifts in Anishinaabe Communities, 1820–1832." *American Indian Quarterly*, vol. 26, no. 2 (2002): 221–245.
- Murray, David. *Indian Giving: Economies of Power in Indian-White Exchanges*. Amherst: University of Massachusetts Press, 2000.

Girty, Simon

Simon Girty (1741–1818) was an American frontiersman who fought with the British during the American Revolutionary War (1775–1783). He was considered by both his contemporaries and later nineteenth-century writers a traitor to both the patriot cause and to the white race. Born in Pennsylvania, Girty was taken captive in a Seneca raid in 1756. The Senecas eventually adopted him, and he learned their language. Girty came to prefer his Indian life to the life he had left behind. He became a scout and interpreter for the British Army during the latter years of the Seven Years' War (1756–1763), and in 1774 served in Dunmore's War alongside many of the same Virginians who later became his adversaries.

The outbreak of the American Revolutionary War placed Girty, like many other cultural intermediaries, in an uncertain position. At first he served the colonies as an interpreter and ambassador to the Six Nations of the Iroquois and as a member of the Virginia militia. In 1778, however, he threw his lot in with the British, moved to the Ohio country, and began to lead Loyalists and Indians in ferocious Indian raids against American backcountry settlements, including attacks on Bryan's Station and Blue Licks in Kentucky. His exploits earned the intense fear and hatred of backcountry settlers. The capture and ritualistic burning of an American officer named Colonel William Crawford in 1782, on which sources differ as to Girty's participation, cemented his unsavory reputation in American eyes.

After the war, Girty continued to conspire with the British and to lead troops against American settlements. He participated in many of the major battles on the American western frontier, including the pivotal Battle of Fallen Timbers in 1794. He died in 1818 in Canada, where he had been forced to move after Great Britain surrendered its claim to Detroit after Jay's Treaty.

See also *American Revolutionary War (1775–1783)*; *Fallen Timbers (1794)*, *Battle of*; *Jay's Treaty*.

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BIBLIOGRAPHY

- Barr, Daniel. "'A Monster So Brutal': Simon Girty and the Degenerative Myth of the American Frontier, 1783–1900." *Essays in History*, vol. 40 (1998). Available online at <http://etext.virginia.edu/journals/EH/EH40/barr40.html>.
- Butterfield, Consul Wilshire. *History of the Girtys*. Columbus, Ohio: Long's College Book Company, 1950.
- Calloway, Collin. "Simon Girty: Interpreter and Intermediary." In *Being and Becoming Indian: Biographical Studies of North American Frontiers*, edited by James A. Clifton, 38–58. Chicago, Ill.: Dorsey, 1989.

Horsman, Reginald. *Matthew Elliott, British Indian Agent*. Detroit: Wayne State University Press, 1964.

Gold and Gold Rushes

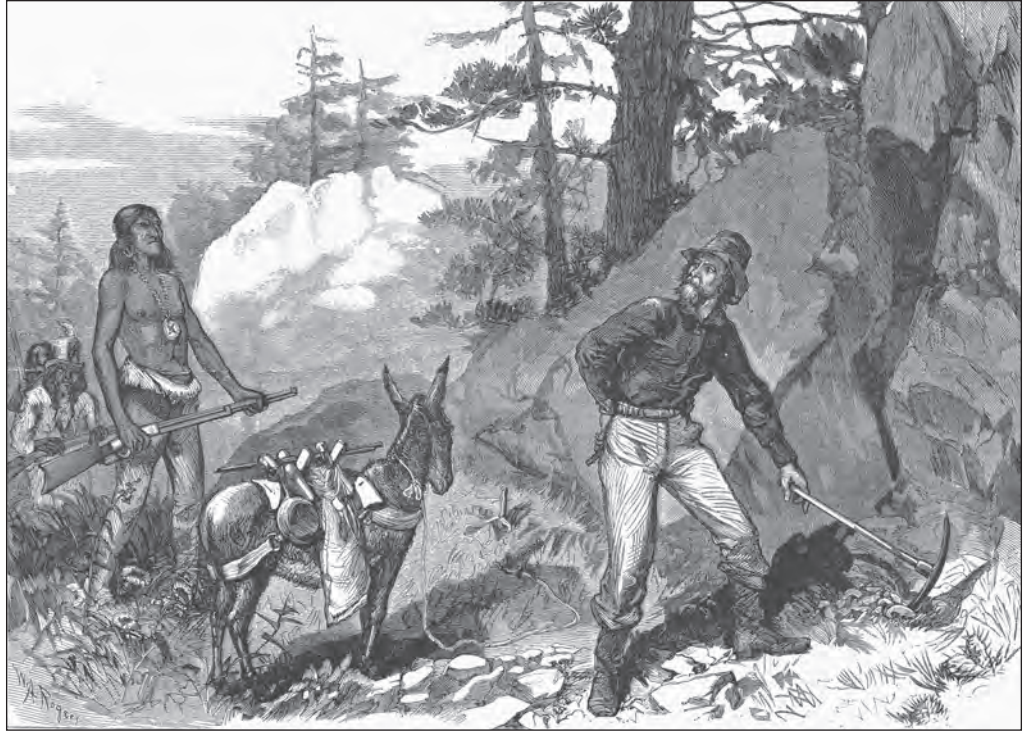
A series of gold discoveries on Indian lands beginning in the early nineteenth century resulted in rushes by non-Indian miners who felt no guilt about claiming, settling on, and working Native lands without the permission of the tribal owners. Thus, gold rushes obviously produced antagonistic relations between miners and Native people; in the worst cases, miners attempted to exterminate Indian people who lived on land with gold deposits. Mining and the settlements of miners also caused irreversible environmental damage. Although these developments caused difficulties for those responsible for U.S. Indian policy, in several cases the initial gold rush created opportunities for the U.S. government to accelerate the process of acquiring Indian lands and removing Indians to new lands or reservations.

The Cherokee Nation Gold Rush

In 1828 prospectors discovered gold in the mountains of what is now northern Georgia, on lands belonging to the Cherokee Nation, and swarms of miners moved into Cherokee territory to stake claims. This trespass inflamed already tense relations between whites and Indians. The state of Georgia had already begun seeking to extend its jurisdiction over the Cherokee Nation in an attempt to force the Indians out of the state and seize their lands. The gold rush only worsened the pressure on the Cherokees to remove.

Soon after the rush, the state legislature sent surveyors to the Cherokee Nation to make preparations for seizing its territory and distributing the land to white citizens. In 1830 Congress passed the Indian Removal Act, which provided President Andrew Jackson with the authority to negotiate certain treaties with the Indian tribes living east of the Mississippi. In these treaties, the Indians would exchange their homelands for new territories in the West. The president quickly signed the act and appointed commissioners to try to sign treaties with the tribes in the Southeast. In 1832 Georgia held a land lottery that awarded forty-acre tracts of Cherokee land to the winners; some of these tracts included mineral rights provisions that provided owners with the right to any gold found thereon. In 1835 a dissident faction of Cherokees signed a removal treaty at New Echota, and in 1838–1839 almost all of the Cherokees were relocated to new lands in the Indian Territory (in what is present-day Oklahoma).

During the Gold Rush, many Native Americans were driven off of their lands by illegal prospectors who ignored treaties and territories in their quest to mine for gold.



California

In February 1848 the United States acquired sovereignty over Mexican lands, including California, under the Treaty of Guadalupe Hidalgo that ended the U.S.–Mexican War (1846–1848). The California Indians fared no better under the U.S. Constitution than they had under Mexican rule. A month before the treaty was signed, on January 24, 1848, an employee of John Sutter named James Marshall found the first gold nugget at Sutter’s Mill, a sawmill located on the American River about forty-five miles northeast of Sacramento. After Marshall’s initial discovery, his boss and an associate, Charles Weber, began using Indians to mine the gold, following the Mexican tradition of using Indian labor to extract natural resources.

Experienced Cherokee gold miners trekked to California during the Gold Rush of 1848 and applied their mining expertise to these new strikes. By the end of 1848, four thousand Indians worked the gold fields compared to two thousand whites. In 1849 Indians created the “Long Tom,” or the sluice box, an oblong box filled with running water that collected gold particles. As news of the gold discoveries spread, more Europeans, Australians, Chinese immigrants, and Americans from the East arrived in California looking to get rich. Soon thereafter, white miners forced the Indians to leave the mines.

In 1851 Congress ordered three federal Indian agents to negotiate eighteen treaties with 402 California Indian leaders who purportedly represented 139 bands or tribes. (In fact, subsequent studies demonstrated that as many as 175 tribes failed to sign treaties during this period, and that many of the leaders who did sign only represented local towns or villages and not entire tribal groups.) The U.S. government promised the Indians 8.5 million acres on ten reservations in exchange for the rest of California. However, California legislators who feared that the reservation lands still held riches and who did not want to recognize the right of tribes to negotiate treaties successfully pressured Congress to not ratify the treaties. An 1852 California Assembly report proposed that Indians be quickly removed, with suggested destinations including Oklahoma, Oregon, New Mexico, Utah, and Catalina Island. By 1900 fewer than sixteen thousand Indians remained in California. Those who remained were removed through special agreements (but not treaties) to small reservations in the state.

Colorado

In 1859 the discovery of gold drew thousands of Midwesterners to the Pike’s Peak country of the Southern Rocky Mountains, establishing the first sizeable European-American population in the region. Many disappointed gold

seekers left in the early 1860s, but the people that stayed, especially farmers, began encroaching on Native American hunting areas. The Ute lived in the mountain and plateau regions, and the Cheyennes and Arapahos controlled most of the plains. Indians raided the stage routes between Denver and the Missouri River, and during the Civil War (1861–1865), the Union government withdrew the federal troops posted in Colorado, leaving citizens without adequate defenses against the raids. On November 29, 1864, Colonel John M. Chivington attacked a village of sleeping Cheyennes and Arapahos at dawn, killing several hundred men, women, and children. His attack, known as the Sand Creek Massacre, caused a national controversy. Despite public sympathy for the Indians, in 1867 regular army troops forced all of the Indians except the Southern Utes off the Colorado plains and onto reservations in Oklahoma.

The Black Hills

In 1868 the United States government ratified the Treaty of Fort Laramie, designating the Black Hills, a one-thousand-square-mile region that the Sioux held sacred, as belonging to the Sioux. The treaty stated that any future cession of Sioux land would require the consent of 75 percent of the men of the tribe. The treaty also banned whites from the Black Hills, but gold irresistibly lured them there.

In 1874 George Armstrong Custer led an expeditionary force of one thousand men, including geologists and miners, into the Black Hills. A few months after the force arrived, Horatio N. Ross discovered gold along French Creek. A great gold rush into the hills followed. Prospectors came to Deadwood Gulch in November 1875 and discovered large gold deposits, leading to thousands of gold seekers rushing into the new town of Deadwood the following year. The U.S. government tried to intimidate the Sioux into selling their remaining twenty million acres. When this did not work, U.S. negotiators compelled the Sioux to cede the Black Hills; only 10 percent of the adult male Sioux population signed the treaty. As of the early twenty-first century, the Sioux people were continuing to work to recover the Black Hills.

Nevada

The discovery of the gold and silver of the Comstock Lode at Virginia City, Nevada, in 1857 precipitated a crisis for the Paiute Indians. Over the next ten years, prospectors penetrated every part of the territory, and boom towns dotted the desert. The introduction of livestock and the destruction of

native food plants further threatened the Indian way of life. Indians had guns and horses by this time and fought the whites in clashes that began about 1860, prompting the U.S. government to establish military posts. On October 1, 1863, the government appropriated the territory of the Western Shoshones, and included within it the northern part of the lands that the Northern Paiutes occupied. On March 19, 1874, the government set aside a reservation for the Paiutes at Walker River; and on March 23 it established another reservation at Pyramid Lake. The government took over the remainder of the Paiute and Ute lands without the Indians formally relinquishing them.

Oregon

In winter 1851–1852, packers on the trail to California discovered placer mines in southwestern Oregon and within weeks a population of miners from California surged into the area. The lives of the Indians of the Rogue River country in what is present-day southern Oregon were forever disrupted, despite the fact that their land had been reserved in treaties negotiated in 1853 and 1854 with Anson Dart, who had negotiated several treaties with the Native people in Oregon. Miners drove Indians from their villages, which were located on old stream terraces that were, unfortunately for them, prime locations for placer deposits. The white miners hunted the game, decimating the deer and elk populations. Miners and the settlers that followed them into the region formed volunteer companies and perpetrated massacres against the Indians. Finally, the U.S. Army removed the Indians of the Rogue and Umpqua valleys and the southwestern Oregon coast to the Siletz and Grand Ronde reservations.

Alaska

After Alaska was transferred by Russia to the United States in 1867, the Tlingits, Haidas, and other Native peoples of the territory remained for a time isolated from the consequences of the transfer. In July, 1897, however, a ship returning from Alaska arrived in Seattle with a ton of gold on board, setting off a frenzy as thousands of prospectors invaded the Yukon-Klondike regions of the territory looking for quick riches. The Klondike gold rush devastated and transformed the Alaska Native economy. Native workers in the mines were routinely paid less than whites and given the worst jobs. They provided hauling services in their canoes, and a contemporary observer noted that they were cheaper than mules. Wage labor supplanted subsistence living and degraded Native societies' political independence. "Miner's law"

was the rule, a euphemism that legitimized trampling on aboriginal property rights. The Tlingits worked as mining laborers, although they were not allowed to make their own mining claims until 1931.

In 1953 the joint Haida-Tlingit Land Claims Council formed to seek compensation for lands taken illegally during white settlement, and in 1971 the United States Congress passed the Alaska Native Claims Settlement Act. The largest land claims settlement in United States history, it extinguished Alaska Native claims to the land by transferring titles to twelve Alaska Native regional corporations and over two hundred local village corporations.

See also *Alaska Natives; Alaska Native Claims Settlement Act; Black Hills; California Indians; Dart, Anson; Indian Removal Act (1830); Mining and Mineral Rights; New Echota (1835); Treaty of Removal; Sand Creek Massacre (1864).*

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BIBLIOGRAPHY

- Berton, Pierre. *Klondike: The Last Great Gold Rush, 1896–1899*. Ontario: Anchor Canada, 2001.
- Slaughter, A. L. *The Homestake Mine in Ore Deposits of the United States, 1933–1967*. New York: American Institute of Mining Engineers, 1968.
- Tripzner, Clifford, and Joel R. Hyar. *Exterminate Them: Written Accounts of the Murder, Rape and Slavery of the Native Americans During the California Gold Rush, 1848–1868*. East Lansing: Michigan State University Press, 1999.
- Watson, Parker. *Gold in the Black Hills*. Lincoln: University of Nebraska Press, 1966.
- Williams, David. *Georgia Gold Rush: Twenty-Niners, Cherokees, and Gold Fever*. Columbia: University of South Carolina Press, 2003.

Goldwater, Barry

Born in Phoenix, Republican senator and presidential candidate Barry Goldwater (1909–1998) grew up idealizing Arizona's Hopi and Navajo Indians. During his years as a businessman, he collected Indian art and took photographic portraits of Native Americans. While serving in the Senate, he sponsored legislation protecting sacred Indian sites, as well as the Navajo-Hopi Settlement Act of 1974, which resulted in the relocation of thousands of Navajos.

In the 1930s and 1940s, Goldwater managed his family's department store, flew airplanes, became an avid photographer, and began buying ceremonial Hopi Kachina dolls. The latter two hobbies brought him to Navajo Country, the region of Arizona surrounding Monument Valley. He took formal portraits of Indian elders in traditional clothing and

candid pictures of Indians at work, including an image of Navajo girls herding sheep in the snow that made the cover of *Arizona Highways* in 1946. He also organized relief flights, flying Indians and medicine to reservation hospitals and dropping hay and feed to Navajo livestock stranded by winter storms.

In World War II (1939–1945) Goldwater served as a pilot for the U.S. Air Corps and the Ferry Command. Returning to Phoenix after the war, he entered politics, taking a seat on the city council (1949–1952) and serving on an Indian Affairs advisory committee within the Department of the Interior (1948–1950).

In 1953 Goldwater entered the Senate, where he focused some of his time on the needs of Hopi Indians, a small tribe of agrarian Indians surrounded by Navajo herdsman. He had the joint Navajo-Hopi office within the Bureau of Indian Affairs separated in 1954, enabling the Hopi to lobby for their own interests.

Goldwater ran against Lyndon Johnson for president in 1964. Considered a warmonger and an extremist by some Democrats, he only won in Arizona and five southern states. However, he sparked a conservative movement in Republican politics that culminated in the election of Ronald Reagan as president in 1980.

Back in the Senate, Goldwater turned his attention to a Navajo-Hopi land dispute concerning 1.8 million acres held jointly by the tribes since 1962. The Hopi Tribal Council, as well as southwest energy companies, wanted to divide the property in order to access its oil, gas, and coal, and to keep the Navajos from encroaching further onto Hopi territory. Arguing that the Hopis had original claim to the land, Goldwater sponsored the Navajo-Hopi Settlement Act of 1974, which partitioned the Black Mesa region and called for the relocation of ten thousand Navajos and 160 Hopis. The act infuriated members of both tribes; led to a bitter feud between Goldwater and the Navajo tribal leader, Peter MacDonald; and was later blamed for destroying traditional lifestyles and raising the rates of alcohol and drug abuse, divorce, and domestic violence.

Following the Navajo-Hopi dispute, Goldwater considered less controversial Indian legislation. In 1978 he provided New Mexico Zuni Indians access to sacred grounds in Arizona, and in 1984 he sponsored legislation permitting the Zuni to purchase twelve thousand acres surrounding the site. Goldwater retired from the Senate in 1986 and resumed his passion for photography and Indian art.

See also *Hopi-Navajo Relations*.

Jane Armstrong Hudiburg

BIBLIOGRAPHY

- Goldberg, Robert Alan. *Barry Goldwater*. New Haven, Conn.: Yale University Press, 1995.
- Iverson, Peter. *Barry Goldwater: Native Arizonan*. Norman: University of Oklahoma Press, 1997.

Gorton, Slade

Slade Gorton (1928–), Republican senator from the state of Washington, threatened Indian fishing rights and attacked Indian treaty rights. His career as state attorney general from 1969 to 1981 featured extensive litigation against off-reservation fishing rights, culminating in efforts to obstruct and overturn the 1974 Boldt Decision (*U.S. v. Washington*). Gorton entered the U.S. Senate in 1981. He lost his reelection bid, but was returned to his seat in 1989. He spent his entire congressional career serving on the Indian affairs and appropriations committees. Gorton left the Senate after a narrow loss to Democrat Maria Cantwell in 2000.

One of Gorton's first acts as senator was to amend the 1900 Lacey Act in order to make illegal fishing a felony offense. This amendment was immediately used to prosecute David Sohapp Sr. and other Indians along the Columbia River following the "Salmonscam" sting operation. The trial garnered international attention and sent several men to federal prison for three to five years. Gorton also argued that Indians were using their treaty rights as a shield against civil lawsuits and to make tax-free profits. He attempted without success to deny federal funds to Indian tribes that made more than a certain amount of money from gaming or other forms of economic development.

See also *Gaming*; *United States v. Washington* (1974).

Caryn E. Neumann

BIBLIOGRAPHY

- Cohen, Fay G. *Treaties on Trial: The Continuing Controversy Over Northwest Indian Fishing Rights*. Seattle: University of Washington Press, 1986.
- Johansen, Bruce E. *Shapers of the Great Debate on Native Americans: Land, Spirit, and Power*. Westport, Conn.: Greenwood Publishing, 2000.
- Ulrich, Roberta. *Empty Nets: Indians, Dams, and the Columbia River*. Corvallis: Oregon State University Press, 1999.
- Wilkinson, Charles. *Messages from Frank's Landing: A Story of Salmon, Treaties, and the Indian Way*. Seattle: University of Washington Press, 2000.

Gover, Kevin

William Kevin Gover (1955–) entered private practice in Washington, D.C., after clerking in the U.S. district court system, and became known as a prominent Indian lobbyist and lawyer. Gover played an important role in the 1992 Clinton-Gore presidential campaign and was instrumental in securing the American Indian vote that helped win the election. Gover served as Clinton's assistant secretary of the interior for Indian affairs from 1997–2001. During his term, Gover offered a formal apology for the role that the Bureau of Indian Affairs (BIA) played throughout history in disposing American Indians of land and institutions, and for acts against the cultural integrity of Indian people.

Upon leaving the BIA, Gover joined the Washington law firm of Steptoe & Johnson. He joined the faculty of the Sandra Day O'Connor College of Law at Arizona State University in 2003 and began serving as a tribal court judge for the Tonto Apache and San Carlos Apache tribes. In 2007 Gover became the second director of the Smithsonian Institution's National Museum of the American Indian. Gover holds a bachelor's degree from Princeton University and a law degree from the University of New Mexico School of Law.

See also *Bureau of Indian Affairs (BIA)*; *Clinton, Bill*; *Smithsonian Institution*.

Renee Ann Cramer

BIBLIOGRAPHY

- Buck, Christopher. " 'Never Again': Kevin Gover's Apology for the Bureau of Indian Affairs." *Wicazo Sa Review*, vol. 21 (Spring 2006): 97–126.
- Gover, Kevin. "Remarks at the Ceremony Acknowledging the 175th Anniversary of the Establishment of the Bureau of Indian Affairs." *American Indian Law Review*, vol. 25 (2000–2001): 161–163.
- Russell, Steve, "Kevin Gover: Briefcase Warrior," 2000, www.nativeweb.org/pages/legal/russell_gover.html.

Government-to-Government Relations

At the most fundamental level, the relationships between the United States and Native nations are considered government-to-government relations. This theory maintains that the tribes are independent sovereign nations dealing with the United States on a nation-to-nation basis. Since the first treaties were signed between the United States and Indian tribes, the federal government's policies have shifted between

forming relationships easily recognizable as government-to-government ones and attempting to put or keep Native nations in a dependent or inferior position.

Precedents for Defining U.S.-Tribal Relations

Proponents of tribal sovereignty maintain that the Indian tribes of North America are inherently sovereign. They also maintain that the United States acknowledged that sovereignty early in its history by negotiating treaties with the tribes in the same manner that it dealt with European nations. The initial U.S. policy of dealing with Indians on a nation-to-nation basis began to change in the early 1800s as the federal government removed Native people from the eastern parts of the new country. During this period the federal courts attempted to define U.S.-Native relationships. In its 1831 decision in *Cherokee Nation v. Georgia*, the Supreme Court declared that Native tribes were nations, but not nations “foreign” to the United States. Chief Justice John Marshall described the tribes as “domestic dependent nations” and said that the relationship between the United States and an Indian tribe resembled “that of a ward to his guardian.” Consequently, since that case federal courts began to argue that the federal government maintained a fiduciary (or trust) relationship over the Indian tribes, who were supposedly incapable of managing their own affairs.

The next year, in *Worcester v. Georgia*, the Court stated that the Indian tribes retained considerable powers of sovereignty and that Congress had plenary (complete) power over the relations with Native nations to the exclusion of the states. This language implied to some subsequent courts, most notably in *United States v. Kagama* (1886), that Indians were subject to the dictates of Congress. The concept of plenary power has been used to justify a number of U.S. policies that have circumscribed the autonomy of the tribal nations and threatened the principle that Native nations and the United States have a government-to-government relationship.

When removal of most eastern tribes had been completed, the United States turned its attention to the Native nations west of the Mississippi River. There, the United States continued its policy of acquiring Indian land and removing Native Americans from the path of national expansion. In the latter half of the 1800s, this policy had three main components. First, the United States sought to end Indians’ military resistance to encroaching Euro-American populations and move Native individuals onto reservations. Second, in 1871 it ended the practice of making treaties with Native nations and recognizing Indian gov-

ernments as sovereign nations. And third, the allotment policy broke reservations into individual land-holdings, which was designed in part to encourage the assimilation of Indian individuals and to disrupt traditional Native societies and tribal affiliations. While the United States continued to recognize individuals as “leaders” of Native groups when it suited its purposes, for a time these policies essentially ended the government-to-government relationships that had been formed in early treaties.

The Indian New Deal and Termination

The allotment policy ended with the 1934 Indian Reorganization Act (IRA) or Wheeler-Howard Act. This act also renewed the U.S. policy of creating government-to-governments relations with Indians, but on a very limited scale. The IRA allowed reservation-based populations to form new tribal governments, but not as a resurgence of relationships among sovereign equals. The situation was dominated by the United States. The IRA authorized the creation of new governments by the tribes, but a new tribal government had to be recognized by the U.S. Department of the Interior before it was considered one with which the United States would maintain relations.

Still, the concept that Native governments could—and did—exist was reborn within U.S. policy, and the country again recognized the existence of organized Indian governing entities. This facilitated communication between reservation populations and the federal government. It also, however, facilitated the separation of Native nations from their natural resources by providing a legitimized, “recognized” body with which the federal government and companies could negotiate. While the new governments were supposed to negotiate resource extraction contracts on behalf of all their members, the reality was what one scholar called the “Rubber Stamp Era” in tribal politics, meaning that the United States held the authority to influence the nature, powers, and actions of tribal governments.

The United States reversed its position on expanding government-to-government relations again in the 1950s with the termination policy. Congress decided that tribal governments and reservations should be ended—or “terminated.” The Menominee reservation, for example, was turned into a county within the state of Wisconsin. Its administration became a county rather than a tribal government. The federal government also provided incentives to individuals who left reservations and relocated to urban centers. There, they often lost the ability to participate in reser-

vation-based governments. The termination policy was never implemented on most reservations and was a pronounced failure where it was put in place. It was abandoned fairly quickly, although it threw a shadow over Indian efforts toward self-governance that persisted for many years.

Modern Era

In the fluid political environment of the 1960s and early 1970s, Indian activists and attorneys created a movement for tribal sovereignty based on the legal structure provided by treaties and court decisions. This movement culminated in a 1970 message to Congress by President Richard Nixon supporting the general idea that the tribal nations held significant powers of self-determination. In 1975 Congress passed the Indian Self-Determination and Education Assistance Act (Public Law 93-638), which provided the tribes with meaningful opportunities to regain control over their internal economic and social affairs. From that point forward, the term “government-to-government relations” came into common use and took on a more nuanced meaning.

Government-to-government relations under the Indian Self-Determination and Education Assistance Act meant something substantially less than full, independent Native nation sovereignty. In general, it recognized a limited form of self-government and described relationships in which the United States remained generally dominant. Under the 1903 *Lone Wolf v. Hitchcock* decision, however, tribal nations remain subject to the general authority of Congress. Typically, Native nations might have the ability to administer programs, the right to contract, and the ability to pass internal regulations. The Indian Self-Determination and Education Assistance Act increased tribal governments’ authority by allowing them to manage programs and services that had previously been overseen by the federal government.

These programs were set up under what became known as “638 contracts,” which were named after the act’s Public Law designation. These contracts provide federal funds to tribal governments for specific purposes. The tribes then administer the programs, as instructed by the appropriate federal authorities. The federal government retains the power to overturn tribal government decisions.

In the self-determination era, federal departments developed individual policies to define their government-to-government relationships with tribes. For example, a Department of Energy (DOE) policy statement read that, “Tribes are sovereign governments,” with sovereignty that predated European contact. It went on to say that tribes were

not “mere administrative extensions of federal programs,” but separate governments. The policy differentiated a government-to-government relationship with elected tribal leaders from federal relationships with “American Indian individuals, groups, organizations, and communities,” and it stated a preference for the former.

Government-to-government relations were recognized by both the Ronald Reagan and George H. W. Bush administrations. This support coincided with the Republican administrations’ broader efforts to downsize government, reduce federal expenditures, and transfer government functions to a more local level. A 1984 policy statement from the Bureau of Indian Affairs (BIA) captured the conservative meaning of “government-to-government relations” during this period. The statement concentrated on federal-tribal contracts, the downsizing of the BIA, and a movement toward placing the bureau into more of an administrative support role. In true Reagan-era style, the goal was a transition to self-determination at the local or, in the case of Indians, tribal level.

Reagan-era efforts to reduce the federal presence included major cuts in social service funding, which in many cases sabotaged tribal governments’ efforts to provide basic services to their members. In this policy environment, tribal governments were pushed to find and create alternative sources of revenue—generally new forms of taxation, targeted federal grants, and tribally directed economic development. In the process, they continued to move toward being less dependent on the federal government.

Additional issues also became prominent, such as the difficulty of using reservation lands as collateral for loans, the taxation of nontribal members on tribal territory, and the protection of tribal government sovereign immunity. Despite these and other problematic issues, some economic efforts were successful. For example, the Mississippi Band of the Choctaws developed a wide range of financially successful business enterprises.

After its passage in 1991, the Tribal Self-Governance Demonstration Project Act gave tribal governments more power to select which programs received federal funds by forming compacts with the federal government. Three years earlier, in 1988, Congress had passed the Indian Gaming Regulatory Act. This law provided another tool that helped tribal governments increase their revenues if they could negotiate the cooperation of the relevant state governments. As gaming became widespread, some tribal governments lost money, some held their own, and a few earned substantial

revenue. Some used gaming revenues to replace federal funding and move to a more independent status. The most successful even gave funds to other tribal governments. However, chronic underfunding of reservation programs remains a problem in the early twenty-first century.

In 1994 President Bill Clinton hosted a White House meeting with 322 tribal leaders. In a memorandum titled "Government-to-Government Relations with Native American Tribal Governments," Clinton acknowledged the United States' commitment to respect for tribal sovereignty and self-government and promised to continue consultation with tribal governments. Clinton did not differentiate between consultation, which meant that the United States would talk to tribal governments before implementing its policies, and sovereignty, which meant that Native nations had the right to independent and full authority within their national boundaries.

The similar lack of clarity in his executive orders 13084 (1998) and 13175 (2000) suggested that he was attempting to please the tribes, the states, and the federal bureaucracy. In one paragraph in the 1998 document, he described the "unique legal relationship with Indian tribal governments." He began by saying that "the United States has recognized Indian tribes as domestic dependent nations under its protection" since it was formed. He went on to describe treaties as "guaranteeing the right of Indian tribes to self-government," and then mentioned that "as domestic dependent nations, tribes exercise inherent sovereign powers over their members and territory." Policy statements by George W. Bush used similarly ambiguous language.

To some extent, the confusion is understandable. Other federal laws—particularly those related to environmental regulation—allow tribal governments to take over their enforcement by achieving a status known as "treatment as a state." These federal policy statements did not signal a return to attempts to eliminate tribal governments. They did typify the difficulty of defining "government-to-government relations" in the context of U.S. policy toward Native nations.

The Future of Government-to-Government Relations

In recent years the situation has become even more complicated as some states have developed their own policies to promote government-to-government relations with tribal governments. These discussions are probably an improvement over the quarrelsome state-tribal relations of the past. However, they also mean the understanding of government-

to-government relations among Native nations, the states, and the federal government is even more complex. As David E. Wilkins noted in his 2002 work *American Indian Politics and the American Political System*, "The study of an intergovernmental relations matrix that includes tribes will remain a complex and tedious field. Complicating factors are legion." One of these complicating factors in recent years has been the failure to use the term "government-to-government relations" in a clear or consistent manner.

Despite this, the concept of government-to-government relations has been applied to improve the bargaining position and autonomy of tribal governments and to increase their ability to set their own agendas and policies. It has also both allowed and encouraged innovation, as tribal members and their governments use the space created by the concept to identify and implement new solutions to poverty, cultural disorganization, environmental destruction, and the outside control of health care, law enforcement, courts, and schools.

Shared geography, language, history, religion, and culture are the traits of nations—and of independent governments with which the United States government can have structured relationships. The relationships between the federal government and the tribal governments is not one in which both sides have equal power. In contrast to the period between the 1870s and the 1960s, however, they are clearly now relations between distinct, somewhat autonomous governments.

See also *Alaska Native Settlement Claims Act of 1971; Allotment in Severalty; Cherokee Nation v. Georgia (1831); Indian Self-Determination and Education Assistance Act (ISDEAA; 1975); Indian Reorganization Act of 1934; Removal; 638 Contracts; Treaty Substitutes: Agreements and Executive Orders; Tribal Acknowledgment (Federal); Tribal Acknowledgment (State); U.S. Indian Policy: Congress and the Executive, 1803–1848; U.S. Indian Policy: Congress and the Executive, 1845–1877; U.S. Indian Policy: Congress and the Executive, 1871–1934; U.S. Indian Policy: Congress and the Executive, 1928–1946; U.S. Indian Policy: Congress and the Executive, 1944–1962; U.S. Indian Policy: Congress and the Executive, 1960–; Worcester v. Georgia (1832).*

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BIBLIOGRAPHY

- Ambler, Marjane. *Breaking the Iron Bonds: Indian Control of Energy Development*. Lawrence: University Press of Kansas, 1990.
- Clow, Richmond L., and Imre Sutton, eds. *Trusteeship in Change: Toward Tribal Autonomy in Resource Management*. Boulder: University Press of Colorado, 2001.
- Cornell, Stephen. *The Return of the Native: American Indian Political Resurgence*. New York: Oxford University Press, 1988.

- Deloria, Vine, Jr., and Clifford Lytle. *The Nations Within: The Past and Future of American Indian Sovereignty*. New York: Pantheon Books, 1984.
- Grounds, Richard A., George E. Tinker, and David E. Wilkins, eds. *Native Voices: American Indian Identity and Resistance*. Lawrence: University Press of Kansas, 2003.
- Harvard Project on American Indian Economic Development. *The State of the Native Nations: Conditions Under U.S. Policies of Self-Determination*. New York: Oxford University Press, 2008.
- O'Brien, Sharon. *American Indian Tribal Governments*. Norman: University of Oklahoma Press, 1989.
- Wilkins, David E. *American Indian Politics and the American Political System*. Lanham, Md.: Rowman & Littlefield Publishers, Inc., 2002.
- . *American Indian Sovereignty and the U.S. Supreme Court: The Masking of Justice*. Austin: University of Texas Press, 1997.
- Wilkinson, Charles. *Blood Struggle: The Rise of Modern Indian Nations*. New York: W. W. Norton and Company, 2005.

Grant, Ulysses S.

Ulysses S. Grant (1822–1885), who was a commander in the army and served as U.S. president from 1869 to 1877, attempted to lessen the impact of inevitable white encroachment on Native peoples by focusing on assimilating the western tribal nations into mainstream society. The federal government had for many years been confining Indians on reservations, and Grant agreed with that approach. Most Americans believed living on reservations would help Natives learn self-sufficiency (mainly by turning them into farmers), pacify their “savagery” through the teaching of Christianity, and protect them from white intrusion. Grant’s efforts to place American Indians on reservations were diverse, difficult, and often violent. He put into practice policies that he believed, if honestly administered, would end hostilities with Natives and provide the only feasible safeguard for their continued existence. He dubbed this plan the “Peace Policy.”

At the age of seventeen, Hiram Ulysses Grant entered the United States Military Academy at West Point where he was mistakenly enrolled as Ulysses Simpson Grant. He graduated in 1843 without ever having corrected the error. Grant served in the U.S.–Mexican War (1846–1848) before spending nearly two years in California and Oregon among Native peoples whose lands were being overrun by American settlers. The vast expansion in the area’s American population brought about the demise of traditional western Indian lifestyles, including the decimation of the Pacific Slope Native population, which occurred while Grant served there. The young lieutenant wrote his wife from Oregon Territory in 1853 that Natives would prove nonaggressive if not intruded upon by settlers.

Grant resigned from the army briefly before returning at the outbreak of the Civil War (1861–1865). He quickly rose to commander of the western armies of the United States. After significant victories in Vicksburg and Chattanooga, Grant became commander of all the Union armies. Grant’s leadership of U.S. forces helped bring about Confederate general Robert E. Lee’s surrender at the Appomattox Courthouse in Virginia in April 1865 and made him a national hero.

After the Civil War, Grant believed American Indian extinction to be a real possibility due to the westward migration of American citizens, the railroad’s rapid spread across Native territories, and the destruction of the buffalo herds. The lack of any substantive Native presence in the eastern United States led Grant and others to believe that without the government placing western Natives on reservations they would not survive. In 1868 General Grant embarked on an inspection tour of the Plains.

Upon becoming president in 1869, Grant stated his support for assimilation and citizenship for Natives. Once Indians entered reservations, even if forced there, Grant hoped to ensure their safety, fair treatment, and eventual assimilation into society. The “fair treatment” would be assured by placing religious missionaries from a variety of denominations on reservations to run them. This formed the major part of the Peace Policy, which became known as the Quaker Policy.

As general of the army, Grant had pushed the government to move the Indian bureau back to the War Department, and during the early part of his first term, he placed retired officers in several of the vacant Indian agent positions. However, as president-elect, Grant had met with several members of the Hicksite Society of Friends, a Quaker sect, to discuss policy toward Native Americans. The Friends wanted a chance to convert the Plains Indians to Christianity, much as they had done with the Seneca Indians in Pennsylvania. Grant’s aide at the meeting, Lieutenant Colonel Ely S. Parker (1828–1895), a Seneca Indian, understood the history of relations between the Quakers and his tribe and recalled the conscientious treatment his ancestors received from the Quakers. Parker helped persuade Grant to try the Friends’ idea of Christian, nonmilitary intervention. President Grant gave two agencies (reservations) to the Friends for their new missionary policy. The Quaker Policy worked well enough that Grant extended it to other Christian denominations, and most Plains reservations were soon staffed by church officials.

Christian reservation agents, as Office of Indian Affairs employees on reservations were called, held responsibilities that included supplying Native nations with their rations, setting up schools, and converting Indians to Christianity. They sought to educate the Natives and teach them to farm so that they would ready for assimilation into mainstream American society. Grant's plan, though certainly insensitive to the value of Indian culture, was somewhat of an improvement over the traditional spoils system of appointing agents that often led to corruption.

Grant named Parker commissioner of the Office of Indian Affairs, making him the first American Indian to hold the position. He also formed the Board of Indian Commissioners to oversee the Office of Indian Affairs. The board served as an advisory group to the secretary of interior about all Indian affairs, but specifically about the purchase of supplies for the reservations. Furthermore, under Grant the government funded five inspectors to report on reservation conditions directly to the secretary of interior.

In 1871, with the support of Parker and Grant, Congress ended the treaty system and the official practice of recognizing the tribes as sovereign nations. The act, however, required the government to continue to abide by treaties negotiated in the past. The new practice gave the House of Representatives a voice over Indian policy, something it had previously lacked. From that point forward, the government dealt with the tribes by the means of legislative acts and executive orders. In 1875 Grant extended the Homestead Act to include American Indian families.

Grant oversaw a military strategy of relentlessly pursuing hostile Natives to enter and remain on their reservations. Federal troops were engaged in a number of serious conflicts during his administration, including the Modoc War in California (1872–1873), the Red River War in Texas (1874–1875), the Black Hills campaign of George Armstrong Custer, and the latter's disastrous defeat by the Sioux and Cheyennes at the Battle of Little Bighorn (June 25, 1876). While Grant had hoped to establish peace between the United States and the tribes in the West, there can be little doubt that the army's actions during his administration helped bring about the beginning of the end of armed Native resistance.

As was typical of his approach, Grant first attempted peace in most situations. For example, in June 1873, Grant issued an executive order closing the Willowa Valley in Oregon to white settlement. Notwithstanding Grant's edict, settlers flooded onto Nez Perce lands, and the undermanned

army could do little to stop them. In June 1875, under pressure from white Oregonians, Grant realized the futility in resisting the settlement, and reopened the valley to homesteaders despite his 1873 order. He issued a decree that required the Nez Perce, who had not signed a treaty, to settle on a reservation. After many attempted negotiations to establish a reservation favorable to the tribe, war ensued. Only after Grant left office did the army defeat the Nez Percé and place them on a reservation.

The Peace Policy remained relatively popular until Grant's second term, when corruption afflicted his administration. Many scandals erupted, but only one directly impacted Indian policy. It involved Secretary of War William W. Belknap, who was charged with taking bribes from Indian traders in what was known as the "Indian Ring." Though impacted by this scandal, the president was never directly connected to it.

In addition, the Quaker Policy began causing problems. Interdenominational jealousy created constant conflict. Some denominations envied the number of agencies other denominations received, and almost all believed they could convert the Indians most effectively. In the 1880s the government abandoned the practice of assigning reservation administration to the churches.

Grant's name was put into nomination for a third term at the Republican convention of 1880. He lost his life's savings in an investment business and lived his last years in poverty. His memoirs, commissioned by Mark Twain and completed just before Grant's death, received critical and popular acclaim.

See also *Assimilation and Acculturation; Black Hills; Board of Indian Commissioners; Civil War; Custer, George Armstrong; Indian Appropriations Act of 1871; Little Bighorn (1876), Battle of; Modoc War; Nez Perce War; Parker, Ely S.; Red River War; Reservations.*

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BIBLIOGRAPHY

- Bender, Norman J. *New Hope for the Indians: The Grant Peace Policy and the Navajos in the 1870s*. Albuquerque: University of New Mexico Press, 1989.
- Fritz, Henry D. "The Making of Grant's Peace Policy." *Chronicles of Oklahoma*, vol. 37, no. 4 (Winter 1959–1960): 411–442.
- Keller, Robert H., Jr. *American Protestantism and the United States Indian Policy, 1869–1882*. Lincoln: University of Nebraska Press, 1979.
- McFeely, William S. *Grant: A Biography*. New York: W. W. Norton & Co., 1981.
- Rahill, Peter J. *The Catholic Indian Missions and Grant's Peace Policy*. Washington, D. C.: Catholic University of America Press, 1981.

Stabler, Scott L. "Ulysses S. Grant and the 'Indian Problem.'" *Journal of Illinois History*, vol. 6, no. 4 (Winter 2004): 297–316.
 Utley, Robert M. "The Celebrated Peace Policy of General Grant." *North Dakota History*, vol. 20, no. 3 (July 1953): 121–142.

Grattan Fight (1854)

On August 19, 1854, Second Lieutenant John L. Grattan of the U.S. Army and twenty-nine men under his command were killed by Lakotas near Fort Laramie, Wyoming. The Grattan Fight, or "massacre" as it is more popularly known, grew out of long-standing issues related to the overland trails.

Since 1840 more than 150,000 overland emigrants had traversed the overland trails, passing directly through Lakota hunting grounds. This heavy traffic led to the dispersal of the bison herds, introduction of diseases, and occasional conflicts between Native Americans and emigrants. In 1851, therefore, the federal government attempted to protect emigrants and bring an end to intertribal warfare through the Fort Laramie Treaty (1851). By signing the treaty, the Lakotas agreed to allow travelers through their territory unmolested in exchange for annual annuities.

When a lame cow wandered away from a Mormon emigrant train in the summer of 1854, the tentative peace established by the Fort Laramie Treaty came to an end. High Forehead, a Miniconjou Lakota, killed and butchered the lost animal. Upon arriving at Fort Laramie, the Mormon emigrant reported to military officers that Indians had stolen the cow and demanded that something be done. Sensing that trouble was brewing, Chief Conquering Bear met with the commanding officer, Lieutenant Hugh Fleming, and offered to make compensation for the lost cow. Fleming made no immediate decision on a course of action, but when his junior officer, a brash, young West Pointer named John L. Grattan insisted that he be allowed to arrest High Forehead, Fleming approved.

When Grattan and his detachment arrived at Conquering Bear's village to arrest High Forehead, a standoff ensued. Grattan, who had little respect for Native Americans, demanded that the culprit be handed over, but High Forehead, backed by his Miniconjou relatives, stood firm and refused to surrender. Conquering Bear and Man Afraid of his Horses, a respected Oglala chief, worked frantically to avoid conflict, but when a messenger reported that High Forehead would die rather than surrender, Grattan ordered his soldiers into the Lakota village. When the soldiers formed a skirmish line, High Forehead and five Miniconjou warriors stepped out of a tepee and began loading their muskets.

Without orders, a nervous soldier fired a round, striking a Lakota. The defiant Miniconjou warriors responded by firing a volley into the skirmish line, dropping one soldier. Grattan retaliated by ordering his troops to fire on Conquering Bear, who by this time had ceased negotiations and was retreating into the village. Soon Conquering Bear and five other Lakotas lay dead or dying. Immediately, hundreds of Brule and Miniconjou Lakotas, along with a handful of Oglalas, pounced on Grattan's soldiers. Lakota warriors quickly overwhelmed the outnumbered soldiers, killing Grattan's entire command.

The Grattan Fight was a turning point in Lakota-American relations. The following year General William Harney led a campaign into Lakota territory and attacked a village on Blue Water Creek near Ash Hollow, Nebraska. More than twenty-five years of intermittent warfare ensued after the Grattan Fight, culminating with the 1890 massacre at Wounded Knee.

See also *Fort Laramie (1851), Treaty of; Wounded Knee Massacre (1890).*

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BIBLIOGRAPHY

- Hyde, George E. *Red Cloud's Folk: A History of the Oglala Sioux*. Norman: University of Oklahoma Press, 1937.
 ———. *Spotted Tails Folk: A History of the Brule Sioux*. Norman: University of Oklahoma Press, 1961.
 Ostler, Jeffrey. *The Plains Sioux and U.S. Colonialism from Lewis and Clark to Wounded Knee*. Cambridge: Cambridge University Press, 2004.

Grazing Rights

During the open range era, which stretched from the early nineteenth century through the passage of the Taylor Grazing Act (TGA) in 1934, Euro-American graziers (raisers of cattle, sheep, horses, and other grazing animals) established "accustomed ranges" for their livestock on public land by performing the first and consistent beneficial "use" of a particular natural pasture. Local custom in the public domain states of the American West—those states containing vacant and unclaimed federal land—observed the Western Doctrine of Prior Appropriation, which asserted "first in time is first in right" for natural resource extraction on public lands. The discovery of an unreserved, unclaimed public resource—such as native forage grass—and its subsequent beneficial use by the original appropriator created a vested, common-law "right of use." In contrast to the Midwestern stock-farming

model of fenced, private-land ranches, the culture of free-range herding followed the animals' seasonal migration patterns to pastures of varying elevations, and depended on public domain grazing rights.

In the mid-nineteenth century, the federal government negotiated treaties of land cession with Native Americans that relinquished tribal land ownership to extensive grazing areas. The treaties also recognized off-reservation Indian grazing and pasturing rights within the legal framework of "accustomed ranges" or long-term customary occupancy. The scope of these grazing rights varied by treaty. In some cases, such as the Walla Walla Treaty of 1855 negotiated with the Cayuses, Umatillas, and Walla Wallas of the Columbia Plateau region, "the privilege of . . . pasturing their stock on unclaimed lands in common with citizens" neither reserved rights exclusive to the tribe nor extended to all ceded lands. In other cases, such as the 1855 treaty with the Nez Perce the "privilege of . . . pasturing their horses and cattle upon open and unclaimed land" was exclusive to the tribe.

The first federal agency to regulate public land grazing, the General Land Office (GLO), largely honored treaty grazing rights. The General Land Law Revision Act of 1890 authorized the president to withdraw forest reserves from the public domain, and by 1898 presidents Benjamin Harrison and Grover Cleveland had reserved over thirty-nine million acres of forests containing extensive rangelands. To prevent overgrazing, restore pasturage, and achieve "sustained yield" of natural resource production, the GLO instituted a fee-based grazing permit system in 1901. Non-Indian stock growers applied for grazing privileges attached to allotments (individual grazing plots or areas with specific boundaries) with preference determined by priority use and proximity of residence. The GLO, and after 1905 the United States Forest Service (USFS), acknowledged that national forests encompassed ceded tribal lands bearing off-reservation grazing rights, and collaborated with Office of Indian Affairs (OIA) agents and reservation superintendents to ensure tribal members enjoyed continued and preferential access to their accustomed ranges. Tribes are exempted from paying grazing fees, and have typically brokered a memorandum of understanding with the USFS. The tribes also generally oversee the issuance of permits to tribal members to ensure compliance with range management practices.

Although the BIA mission of cultural assimilation sought to turn Native peoples into sedentary farmers like white Americans, problems arose when reservation lands were unsuited for raising crops. To combat this, local superintend-

ents developed on-reservation livestock raising and cattle ranching as an alternative. Local BIA agents supplied livestock acquired under the pledges of original treaties as well as supplemental purchases. Superintendents also allowed tribal authorities to grant free grazing privileges to tribal members.

Although Native graziers enjoyed a "right of use" to animals provided to them by the federal government, the government retained legal ownership. Congressional legislation, such as the Appropriations Act of 1884, restricted the autonomy of on-reservation Native American graziers by limiting their sale of federally provided livestock (and its offspring) to fellow tribal members only. The act blocked them from marketing their animals to other tribes or non-Indian buyers without the written consent of federal officials. The Appropriations Act of 1919 extended constraints and prohibited Native graziers from loaning, leasing, or gifting their livestock to nontribal members. It also banned the removal of livestock from the reservation and enforced this rule by universally marking animals with a tribal brand or the Interior Department initials, "I.D."

On-reservation grazing rights eroded further under the General Allotment Act (Dawes Act) of 1887, which divided reservations into smaller plots, or allotments, and forced tribal grazing grounds open to non-Indian ranchers. To advance the adoption of farming and ranching lifestyles, the federal government issued tribal members individual land patents to specific allotments and originally held the titles in trust for twenty-five years. Reformers hoped the trust period would prevent land-hungry non-Indians from interrupting the "civilizing process" by buying the allotments before Native allottees had a chance to become self-sufficient agriculturalists.

Amendments to the Dawes Act passed in 1891, 1910, and 1921 responded to pressures from western politicians and white livestock raisers seeking access to reservation pastures and authorized grazing leases on trust allotments and unallotted reservation lands. By the end of the allotment era in 1934, local elite white graziers and corporate ranches had consolidated vast tracts of long-term leaseholds on reservation grazing lands. The Indian Appropriations Act of 1902 accelerated tribal dispossession by enabling Natives to sell inherited allotments prior to the termination of the trust period. Non-Indian graziers who had invested capital improvements on their leased grazing allotments exploited the 1902 law to ensure they gained permanent title to their long-term leaseholds.

In 1934 the TGA expanded the federal regulation of public land grazing to the remaining federal rangelands outside

forest reserves and reservations. The law also reinforced the principle that federal permits represented revocable privileges and not affirmation of preexisting property rights. The TGA and its amendments empowered the secretary of the interior to withdraw 142 million acres of vacant, unclaimed public lands from all forms of disposal, private claims, and homesteading. Touted as the “New Deal on the Range,” President Franklin Roosevelt endorsed the TGA as a hallmark of his administration’s natural resource policy and hoped the act would stabilize the economy of the livestock industry and regenerate the overgrazed range.

Although TGA districts also covered ceded off-reservation tribal land, unlike the USFS, the Department of the Interior (DOI) required tribes (applying as corporations) or tribal members (applying as individuals) with accustomed ranges to participate in the federal adjudication (dispute resolution) of public domain range rights with the same status and eligibility as non-Indians. A series of highly influential opinions issued by the DOI solicitor in 1937 and 1938 regarding the respective permit applications of pueblo communities and individuals on New Mexico TGA district lands established a precedent that would be followed by the U.S. Grazing Service and its successor agency, the Bureau of Land Management (BLM). The solicitor ruled that both corporate and individual Indian applicants must demonstrate the ownership or control of private (tribal, nonfederal) “base property” with sufficient water and feed to support the applicant’s livestock when not permitted on the federal range. The opinion confirmed the right of individual Indian applicants to claim communal “base lands,” and entitled them to priority preference if they also owned individual property.

The Indian Reorganization Act of 1934 (IRA), dubbed the Indian New Deal, accompanied the passage of the TGA, and shared as part of its vision a similar conservationist objective that affected on-reservation grazing as profoundly as the TGA changed grazing rights outside reservation boundaries. Sponsored by the progressive commissioner of Indian affairs, John Collier, the IRA reversed the policy of assimilation, ended allotment, fostered self-determination, and advanced the reconsolidation of communal lands and resources. Collier, influenced by the 1928 *Meriam Report*, committed the BIA to combating overgrazing as the primary method of preserving reservation range lands.

Although the diversity of tribal experiences renders generalizations difficult, ultimately, Collier’s implementation of the IRA was subject to significant regional variations. On Northern Great Plains and Intermountain West reserva-

tions, Collier replenished tribal herds depleted during the allotment era by providing cattle and creating a BIA agricultural credit fund that expanded loan opportunities for tribal members purchasing livestock and supplies. He also mobilized the Indian Civilian Conservation Corps to coordinate a range rehabilitation program, including the construction of stock water facilities, the re-seeding of natural grasses, and the eradication of noxious weeds. In contrast, many southwestern reservations suffered dramatic stock reductions under the IRA, which devastated families and communities on the Navajo, Tohono O’odham, and other reservations.

The Sagebrush Rebellion of the 1970s (an antifederal protest movement of rural western landowners and county governments) witnessed a resurgence of many non-Indian public land graziers rejecting the legality of the TGA and asserting their vested range rights based on prior appropriation. Native American graziers have similarly condemned the alleged violations of off-reservation treaty rights by the USFS and BLM throughout the twentieth century and into the new millennium. The adjudication of Indian grazing rights continues to evolve, as reflected by the 2002 public demonstration conducted by members of the Western Shoshones at the BLM Nevada State offices in Reno. The rally sought to raise public awareness about the terms of the Ruby Valley Treaty of 1863 with the Western Shoshones in light of the BLM’s recent confiscation of unpermitted cattle owned by two Shoshone livestock raisers. The cattle were grazing on ceded tribal land.

See also *Assimilation and Acculturation*; Collier, John; *Indian Civilian Conservation Corps*; *Indian Reorganization Act (1934)*; *Indian New Deal*; Meriam Report; *Ranching*.

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BIBLIOGRAPHY

- Anderson, Terry L., ed. *Property Rights and Indian Economies*. Lanham, Md.: Rowman & Littlefield, 1992.
- Calef, Wesley. *Private Grazing and Public Lands: Studies of the Local Management of the Taylor Grazing Act*. Chicago, Ill.: University of Chicago Press, 1960.
- Foss, Phillip O. *Politics and Grass: The Administration of Grazing on the Public Domain*. New York: Greenwood Press Publishers, 1960.
- Iverson, Peter. *When Indians Became Cowboys: Native Peoples and Cattle Ranching in the American West*. Norman: University of Oklahoma Press, 1994.
- Kelly, Lawrence C. *The Navajo Indians and Federal Indian Policy, 1900–1935*. Tucson: University of Arizona Press, 1968.
- Lewis, David Rich. *Neither Wolf Nor Dog: American Indians, Environment, & Agrarian Change*. New York: Oxford University Press, 1994.

- McPherson, Robert S. "Navajo Livestock Reduction in Southeastern Utah, 1933–46." *American Indian Quarterly*, vol. 22 (Winter/Spring 1998): 1–18.
- Merrill, Karen. *Public Lands and Political Meaning: Ranchers, the Government, and the Property between Them*. Berkeley: University of California Press, 2002.
- Parman, Donald Lee. *The Navajos and the New Deal*. New Haven, Conn.: Yale University Press, 1976.
- Peffer, Louise E. *The Closing of the Public Domain: Disposal and Reservation Policies, 1900–50*. Stanford, Calif.: Stanford University Press, 1951.
- Rowley, William D. *U.S. Forest Service Grazing and Rangelands: A History*. College Station: Texas A&M University Press, 1985.
- Wilkinson, Charles F. *Crossing the Next Meridian: Land, Water, and the Future of the West*. Washington, D.C.: Island Press, 1992.

Great Britain, Indian Policy of

While the first recorded contact between English officials and Native Americans occurred as early as 1502, Britain's government did not begin to develop a coherent national Indian policy for another 250 years. (Indeed, it is not entirely proper to speak of a single British government until 1707, when the Act of Union united the Scottish and English Parliaments.) In the seventeenth century, the English Crown generally left Indian relations—the regulation of trade, the purchase (or extortion) of land, the establishment of missions, and the execution of wars—to the assemblies and governors of the individual North American colonies.

In the early eighteenth century, the Board of Trade, a semi-independent royal committee that Parliament created in 1696, did occasionally intervene in colonial Indian affairs. The board members, known alternatively as the lords of trade or the commissioners of trade, arranged to send regular shipments of presents to the British colonists' Iroquois, Creek, and Cherokee allies. By 1748 these shipments were worth £3,000 a year. They also convinced the king to veto Virginia and South Carolina statutes that created public fur-trading monopolies in those colonies. These were, however, irregular acts of a fairly obscure committee that did not consider Native Americans to be its primary clients or field of interest.

The Origins of Great Britain's Indian Policy

The impetus for a unified British national Indian policy came from the British American colonies. Between 1730 and 1755, Edmond Atkin, Cadwallader Colden, Benjamin Franklin, Archibald Kennedy, James Logan, and other imperial-minded colonists argued that the security of the south-

ern and middle colonies depended upon those colonies' alliances with powerful Indian neighbors, particularly the Iroquois of western New York, who helped protect English frontier settlements from attack by French-allied Indians. Fur traders and backcountry settlers were threatening those alliances, however, by cheating Indian hunters in trade and encroaching on tribal lands. The reformers argued that Britain could no longer trust the colonial assemblies to protect the king's Indian allies from fraud and violence, and that it was time for the Board of Trade or Parliament to appoint an overall superintendent for colonial Indian affairs.

The British government proved receptive to these proposals because Britons had become increasingly aware of the importance of Native American alliances to their growing empire. During the first half of the eighteenth century (notably in 1710, 1730, and 1734), colonial officials brought delegations of Iroquois, Cherokee, and Creek "kings" to London to meet the British monarch and build support for various military and colonial projects. These visitors caught the imagination of the British public, who experienced their visits either as spectators or by listening to ballads, reading press reports, and purchasing illustrated broadsides composed or written about the Indian sojourners. Britons increasingly viewed Native Americans, in the words of one historian, as exotic "embodi[ments of] the possibilities of empire" for an expanding British nation-state (Eric Hinderaker, "The Four Indian Kings," 1996). The idea naturally followed that what weakened Britain's alliances with Native Americans weakened the mother country, and that the British government should regulate Indian-white relations in order to preserve them.

The First Indian Superintendents

In 1756 the Board of Trade appointed two superintendents to oversee Indian relations, one for the northern colonies and one for the southern. The northern superintendent, William Johnson, was a former fur trader who had served as "Colonel of the Six Nations" since 1747 and had long-standing personal connections with the Mohawks. The first southern superintendent, Edmond Atkin, was one of the colonial reformers who advocated greater Crown control of Indian affairs; he proved an uninspired official and the board replaced him with John Stuart in 1762. The commissioners of trade also issued a decree banning private purchases of land from the Indians, and in the early 1760s Superintendent Johnson advocated drawing a firm and unbreakable boundary line between white and Indian settlements.



In 1762 British Lt. Henry Timberlake and interpreter William Shorey escorted three Cherokee leaders to London. The group, which included renowned Cherokee leader Ostenaco, met King George at St. James's Palace.

The new superintendents of Indian affairs initially exercised little real power, however. During the Seven Years' War, known in the colonies as the French and Indian War (1745–1763), the conduct of Indian relations fell largely to Governor Henry Lyttleton of South Carolina (in the south-east) and to the commanders in chief of the British armed forces (in the Great Lakes region). Lyttleton's harsh response to disputes between settlers and Cherokees—namely, embargoing gunpowder sales to the Cherokees and taking visiting chiefs hostage—caused Cherokee leaders to start a war with their former British allies in 1759. The two-year conflict resulted in the destruction of more than twenty Cherokee towns and the deaths of at least five thousand Indians.

Meanwhile, one of the commanders of the British army in North America, Jeffrey Amherst, responded to the end of hostilities with the French on that continent by adopting an overbearing policy toward the northern Indian nations. He garrisoned the old French forts in the Great Lakes district, stopped distributing presents to the region's Indians, banned sales of rum and gunpowder to Native Americans, and demanded the return of all white captives that Indians had taken. Amherst's policies soon contributed to the outbreak of another war, Pontiac's Rebellion (1763–1766), in which

warriors from nations formerly allied with France destroyed two-thirds of Britain's western posts and killed over one thousand soldiers and settlers. Such conflicts were a convincing argument in favor of placing Indian-white relations in the hands of civilian professionals.

The Proclamation of 1763 and the Plan of 1764

The signing of the Treaty of Paris in 1763 gave Britain sovereign authority over present-day Canada and the eastern half of the present-day United States, and the king and the commissioners of trade moved to consolidate Crown control over Indian policy. In October 1763 George III banned white settlements and private land purchases west of the Appalachian Mountains, although he also decreed that Britain would eventually give land grants to colonial officers and soldiers who had fought in the Seven Years' War. In 1764 the Board of Trade instituted an Indian-relations regime developed by General Thomas Gage and Superintendent William Johnson. The so-called Plan of 1764 required private fur traders to obtain a license from their colony's governor and post bond for their good behavior, and restricted them to specified trading sites—British forts in the north, Indian towns in the south. It also empowered the superin-

tendents to send agents into Indian communities with the legal powers of justices of the peace, which gave them authority to punish petty crimes and keep the peace. Royal troops on the frontier would help the superintendents and agents enforce these regulations.

In practice the new regulations proved unenforceable. Traders and whiskey peddlers swarmed into Native American towns, driving the licensed Baynton and Morgan Company out of business and undermining the licensing regime. White intruders settled on Indian land in western Pennsylvania and the eastern Tennessee Valley, or hunted game in the Indian hunting preserve of Kentucky. British soldiers found it difficult to protect their own supply convoys from bandits, let alone protect Native Americans from white law-breakers.

Deregulating the Frontier, 1768–1774

The year 1768 brought another significant shift in policy. The new secretary of state for the American Department, Lord Hillsborough, moved British troops out of their frontier posts and into American cities where they could help colonial governors stop riots and insurrections. By 1771 there were only four small British garrisons on the American frontier, at Fort Niagara, Detroit, Michilimackinac, and Kaskaskia. The treasury also cut funding for Indian agents, translators, and blacksmiths at these posts. Britain's political influence with the northern Indians declined sharply, and its military authority on the northern frontier virtually collapsed.

At the same time, the Board of Trade lifted most of its earlier restrictions on the fur trade and returned the regulation thereof to the colonial assemblies, which proved no more able than the superintendents to regulate Indian commerce. By the early 1770s, Southern Indian Superintendent John Stuart was receiving routine complaints from the Creeks, Choctaws, and other southeastern nations about liquor smuggling and whites trafficking in stolen goods. Several colonies tried to hold an intercolonial congress on the fur trade in 1770, but the meeting never took place.

The commissioners of trade also authorized William Johnson and John Stuart to negotiate treaties with the Iroquois and Cherokees and “adjust” the Indian boundary established by the king in 1763. The superintendents accordingly negotiated and signed the Treaty of Fort Stanwix and the Treaty of Hard Labor (both in 1768), which moved the colonies' border into southwest Pennsylvania and present-day West Virginia and Kentucky. Several years later, in 1772, the British ministry authorized a further “adjustment”: it

allowed the colony of Georgia to swap the Creek and Cherokee Indians' commercial debts for a 2.1-million acre land cession, subsequently known as the “Ceded Lands.” When Creek warriors protested the cession by attacking settlers in the Ceded Lands, Stuart increased British military aid to the Choctaws, who were then fighting a war with the Creek confederacy, and encouraged them to kill Creek hunters and raid Creek towns.

As thousands of Europeans moved into the newly opened frontier districts, wealthy Britons and colonial merchants formed companies to speculate in Native American lands. In 1772 one consortium, headed by Thomas Walpole, received approval from the Privy Council (the supreme executive council of the British government, consisting of the cabinet ministers and other confidential advisors to the king) to form a new colony, Vandalia, on the Ohio River. The following year, the Privy Council ruled that the colonies themselves could make frontier land grants to veterans of the Seven Years' War, as King George had stipulated in his Proclamation of 1763. Lord Dunmore, the governor of Virginia, used the council's ruling to issue land grants in southwestern Pennsylvania and Kentucky. Dunmore bolstered his colony's claims in 1774 by occupying old Fort Pitt with provincial troops, fighting a brief war in the Ohio Valley with the Shawnees (Dunmore's War), and obliging that nation to cede Kentucky to the Virginia colony.

The Quebec Act and the Coming of Revolution

The shifts in British Indian policy in the 1760s and early 1770s were products of English political instability—government ministers rarely held their offices for more than a couple of years during the first decade of George III's reign—and of Parliament's conflict with the colonies over taxes and trade regulations. In October 1774 Parliament finally approved a statute, the Quebec Act, that it believed would bring some stability and direction to Indian relations. The act created a civil government for the colony of Quebec and extended the borders of the province south to the Ohio River, incorporating therein all of the lands around the Great Lakes. Three months later, the Colonial Office gave the Quebec governor's council the authority to regulate the fur trade on the northwest frontier and ordered the province's governor to restrict white settlement south of the lakes to the small French-speaking communities of Kaskaskia, Cahokia, Vincennes, and Detroit.

However noble its framers' intentions might have been, the Quebec Act only increased the political instability in the

American colonies. Colonial critics of the statute objected to its expansion of Quebec's boundaries and to its creation of an appointed government in the colony, which some colonists believed would provide Parliament with a precedent for the termination of representative government everywhere in North America. New Englanders also objected to the act's formal establishment of the Catholic Church as the official faith of the province of Quebec. Together with the Coercive Acts, which Parliament had passed earlier in the year, the Quebec Act became an "intolerable act" which drove colonial leaders into armed rebellion against the mother country.

With the outbreak of the American Revolutionary War (1775–1783), the primary objective of British-Indian relations abruptly shifted. Instead of trying to regulate the fur trade or purchase Indian land, British officials now merely sought to ensure the western Indians' loyalty and to employ their warriors as military allies. General Thomas Gage authorized the recruitment of Indian warriors in the fall of 1775, and for the next seven years British superintendents, agents, commissaries, and fur traders flooded the trans-Appalachian Indian communities with pro-British speeches and trade goods.

The American Revolutionary War

While most Woodland Indian chiefs and matrons preferred to adopt a policy of neutrality during the Revolutionary War, young warriors and war captains generally sought to join Britain in its fight against the United States. To them, the war offered the opportunities to drive encroaching American settlers off tribal lands; to win glory and property in battle; and to obtain British trade goods, which were otherwise scarce due to the wartime disruption of the fur trade. At least twelve thousand Native American warriors fought for Great Britain during the war.

Despite the British army's success at recruiting Indian allies, Native American warriors did not provide it with an unqualified military advantage in the war. While they were generally quite skilled at reconnaissance, raids, and irregular warfare, Indian warriors proved less effective at siege operations (because they rarely carried large quantities of supplies) and at defending British fortifications (because they were usually reluctant to follow British officers' orders). Northwest Indian warriors helped screen British Canada from American attack, but were unable or unwilling to protect the British posts at Kaskaskia and Vincennes from George Rogers Clark's expeditionary force in 1778–1779.

Southern Indian gunmen were similarly unable to prevent the fall of Pensacola and Savannah to Spanish and American forces in 1781–1782. In addition, American officers used Indian warriors' raids on civilian settlements and their practice of taking scalps and captives as propaganda to recruit additional white militiamen in frontier districts. Native American allies may therefore have inhibited Britain's war effort nearly as much as they helped it.

Britain and the Northwest Indians, 1783–1795

In 1783 Great Britain signed a peace treaty with the United States and nominally surrendered jurisdiction over the Indians residing south of the Great Lakes. Two official decisions over the course of the next year, however, ensured that Britain would retain some influence among Natives in eastern North America. One was the agreement by Frederick Haldimand, the governor of Canada, to provide a reserve on Grand River (in present-day Ontario) for Indians who had fought for King George in the war. By 1785 over 1,800 Iroquois and other Indians had settled in this reserve, including Mohawk officer Joseph Brant, who would shortly become one of the leaders of the Native American military confederacy gathering in the Ohio Valley.

The other decision was made by Lord Sydney, the British home secretary, who in 1784 ordered British garrison commanders in the Great Lakes region not to surrender their forts to the United States until the Americans fulfilled their treaty obligations to British creditors and property owners. Niagara, Detroit, Oswego, Michilimackinac, and four other posts remained under British control, and one thousand British troops remained on American soil for the next twelve years. When Indian war captains formed a multitribal military confederacy to resist American expansion in the Ohio Valley, British garrison commanders allowed them to use these forts as council sites, and British traders and Indian agents used the posts as supply bases from which to provide the confederated warriors with muskets, ammunition, powder, and other supplies.

After confederated Indian warriors defeated the American armies led by Josiah Harmer and Arthur St. Clair in 1790–1791, the British government took an even more direct role in U.S. Indian affairs. In 1792 the British foreign minister, Lord George Grenville, and George Hammond, minister to the U.S. government, proposed the creation of a Native American homeland between the Ohio River and the Great Lakes, from which both Britain and the United States would agree to withdraw their troops and settlements.

Not surprisingly, the George Washington administration in Philadelphia rejected the proposal.

Two years later, when a second Anglo-American war threatened to erupt over Britain's seizure of American ships in the Caribbean, Canadian officials moved to revive Britain's wartime alliance with the Woodland Indians. Lord Dorchester, the governor of Quebec, told the Canadian Indians to prepare for war with the United States, while John Graves Simcoe, lieutenant governor of Upper Canada (present-day Ontario), began arming the Iroquois and ordered construction of Fort Miami on the Maumee River near present-day Toledo, Ohio. The new alliance began to fall apart, however, after the Battle of Fallen Timbers (August 20, 1794), when the commandant of Fort Miami refused to shelter Indian warriors fleeing from General Anthony Wayne's victorious Legion of the United States. By the end of 1795, it was finished: the Northwest Indians signed a peace treaty with the United States at Greenville, and the U.S. Senate approved a new Anglo-American treaty (Jay's Treaty) under which Britain agreed to surrender its forts on the Great Lakes to the United States.

British influence south of the Great Lakes declined after 1795. Jay's Treaty allowed British fur traders to continue operating on the northern Great Plains and in the Mississippi Valley, but many went bankrupt after 1803, when a new war with Napoleon's French Empire wrecked the fur market in Great Britain. British officials in Canada watched for Native American discontent in the United States. In 1810–1811, British agents sent supplies to Prophetstown, the headquarters of Tecumseh and Tenskwatawa's new pan-Indian confederacy, and during the War of 1812 (1812–1814), British officers recruited Plains and Woodland Indian men into the forces defending Canada. About ten thousand Indian warriors, including several thousand from Tecumseh's confederacy, helped British troops take American forts on the Great Lakes in 1812 and raided American settlements in 1813. However, after American troops defeated Tecumseh's warriors at the Battle of the Thames (October 5, 1813), the slain Indian leader's allies signed separate peace treaties with the U.S. government. The next year, in the Treaty of Ghent (December 24, 1814), British commissioners agreed to drop a clause which would have created an Indian homeland south of the Great Lakes and north and west of the old Greenville Treaty Line. This marked the end of Britain's involvement with Indian affairs inside the United States.

Britain and the Canadian Indians after 1815

During the subsequent decades, Whitehall also withdrew from involvement in Canadian Indian affairs. In 1818 the British treasury stipulated that all future Indian land purchases must be financed by the Canadian provincial governments. As Canada's white population grew (from 500,000 in 1815 to 2,500,000 by 1867), Canadian officials embarked on a series of Indian land purchases using the monies paid by private purchasers and mining companies to provide annuities to the ceding Indian nations. Provincial Indian officials increasingly confined eastern Canadian Indians to reserves or small villages, particularly in Quebec and the Maritime provinces. Like the pre-1830 United States government, Canadian officials embarked on a program of Indian "civilization" aimed at assimilating resettled Mikmaqs, Mississaugas, Ojibwes, and other Indian peoples. They provided Indian treaty signatories with gifts of livestock and farm equipment, built schools for them (more than twenty by 1841), and encouraged missionaries to settle in Indian towns and preach the gospel. The culmination of the Canadian civilization project was the 1857 Gradual Civilization Act passed by the legislature of the United Provinces (Quebec and Upper Canada), which offered citizenship to Indians who agreed to attend school and accept individual land allotments. Provincial officials hoped that this would hasten the dissolution of the Canadian Indians' land base and collective identity, though in practice very few Native American men qualified for citizenship under its terms.

One significant department of the British government did continue to intervene in Indian affairs in a particular region of North America until the 1880s. The region in question was the northern Pacific coast of America, and the department was the British Admiralty, which oversaw the Royal Navy. Until the mid-nineteenth century, British and Canadian political authority over the Pacific Northwest was limited, partly because of the distance of the territory from the centers of government, partly because Britain had agreed to share the Oregon Country with the United States, and partly because of the broad commercial powers enjoyed in the district by the Hudson's Bay Company, whose trading posts constituted the principal European presence between Russian Alaska and Spanish California. The reciprocal and generally peaceful commercial relationship between British fur traders and the Pacific Northwest Indians broke down, however, after Britain divided the Oregon Country with the United States in 1846, and particularly after European farm-

ers and gold miners began to settle on Vancouver Island and the Fraser River. James Douglas, the first governor of what would become the colony of British Columbia in 1858, initially pursued a policy of Indian land acquisition similar to that of the U.S. government—that is, dispossession by treaty—but by 1858 he had abandoned that policy in favor of unilateral expropriation of tribal lands and the establishment of Indian reserves.

Douglas also sought to establish firm control over the Indian peoples in his colony, and since much of British Columbia's Native American population resided on or near the seacoast, he repeatedly called on the British Admiralty for military support. From the 1850s through the 1880s, Royal Navy ships patrolled the province's coast, working to suppress the liquor and slave trades. In addition, in the 1860s navy gunboats shelled the towns of Indians accused of attacking white miners and sailors, most notably at Clayoquot Sound in 1864, where a naval raid destroyed nine Ahousat villages and killed at least fifteen people.

By then, the rest of the British government had finished its withdrawal from the process of Indian policy making. In 1858 the treasury stopped providing Canadian officials with funds for the purchase of Indian gifts. Two years later Great Britain formally transferred all remaining responsibility for Indian affairs to Canadian provincial authorities. This effectively ended a century and a half of direct British involvement with North American Indian policy.

See also *American Revolutionary War*; Atkin, Edmond; Clark, George Rogers; *Fallen Timbers, Battle of; Fort Stanwix (1768), Treaty of*; Franklin, Benjamin; *French and Indian War*; *Fur Trade*; Ghent, *Treaty of*; Greenville, *Treaty of*; Harmar, Josiah; *Jay's Treaty*; Johnson, William; *Lord Dunmore's War*; *Paris (1763), Treaty of*; *Pontiac's Rebellion*; *Proclamation of 1763*; *St. Clair, Arthur*; *Stuart, John*; *Tecumseh*; *Tenskwatawa*; *War of 1812*; Wayne, Anthony.

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BIBLIOGRAPHY

- Allen, Robert. *The British Indian Department and the Frontier in North America, 1755–1830*. Ottawa: Information Canada, 1975.
- Anderson, Fred. *Crucible of War: The Seven Years' War and the Fate of Empire in British North America, 1754–1766*. New York: Knopf, 2000.
- Bailyn, Bernard. *Voyagers to the West: A Passage in the Peopling of British North America*. New York: Knopf, 1986.
- Dickerson, Oliver. *American Colonial Government, 1696–1765*. Cleveland, Ohio: The Arthur H. Clark Company, 1912.
- Dowd, Gregory Evans. *War under Heaven: Pontiac, the Indian Nations, & the British Empire*. Baltimore, Md.: Johns Hopkins University Press, 2002.
- Fisher, Robin. *Contact and Conflict: European-Indian Relations in British Columbia, 1774–1890*. Vancouver: University of British Columbia Press, 1977.
- Gough, Barry H. *Gunboat Frontier: British Maritime Authority and Northwest Coast Indians, 1846–90*. Vancouver: University of British Columbia Press, 1984.
- Higginbotham, Don. *The War for American Independence: Military Attitudes, Policies, and Practice, 1763–1789*. Bloomington: Indiana University Press, 1971.
- Hinderaker, Eric. "The 'Four Indian Kings' and the Imaginative Construction of the British Empire." *William and Mary Quarterly*, 3rd Series, vol. 53 (July 1996): 487–526.
- Nichols, Roger. *Indians in the United States and Canada: A Comparative History*. Lincoln: University of Nebraska Press, 1998.
- Shannon, Timothy. *Indians and Colonists at the Crossroads of Empire: The Albany Congress of 1754*. Ithaca, N.Y.: Cornell University Press, 2000.
- Sosin, Jack. *Whitehall and the Wilderness: The Middle West in British Imperial Policy, 1760–1775*. Lincoln: University of Nebraska Press, 1961.
- Snapp, J. Russell. *John Stuart and the Struggle for Empire on the Southern Frontier*. Baton Rouge: Louisiana State University Press, 1996.
- Surtees, Robert J. "Indian Land Cessions in Upper Canada, 1815–1830." In *As Long as the Sun Shines and Water Flows: A Reader in Canadian Native Studies*, edited by Ian Getty and Antoine Lussier, 65–85. Vancouver: University of British Columbia Press, 1983.

Great Father

"Great Father" was a term used by both nineteenth-century American diplomats and Native Americans to refer to the president of the United States. Its origins stretch back to the colonial period. As early as the late seventeenth century, Indians allied with the French near the Great Lakes, Upper Mississippi, and Ohio rivers began referring to the French governor in Montreal by the French term *Onontio*. The word meant "father" and signified less a dependent relationship between the French and the Indians than a common kinship of heretofore differing Native peoples as allies of the king of France. The relationship was one of mutual give-and-take and required specific duties of both the French and the Indians.

At the dawn of the nineteenth century, Meriwether Lewis and William Clark used the term "great father" in their various meetings with Native Americans west of the Mississippi River, and it became common in United States–Indian negotiation language. However, the term reflected the strictly paternalistic attitude of U.S. government policy toward Indians during this period, as opposed to linking allied Indians in a common kinship. This usage stressed the duty of the U.S. government—as the authority figure in the relationship—to "care" for the Indians as if they

were dependent children. By the late nineteenth century, the term had fallen out of usage among both Native people and government officials, but the paternalistic tendencies of U.S. policy continued well into the twentieth century. To underscore the significance of this attitude, noted historian Francis Paul Prucha titled his study of United States–Indian relations *The Great Father: The United States Government and the American Indians*.

See also *Lewis and Clark Expedition*; Prucha, Francis Paul.

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BIBLIOGRAPHY

- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- White, Richard. *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815*. Cambridge: Cambridge University Press, 1991.

Greenville (1795), Treaty of

On August 20, 1794, the forces of U.S. general Anthony Wayne defeated a confederacy of Native American nations from the Old Northwest at the Battle of Fallen Timbers on the Maumee River near present-day Toledo, Ohio. The following summer Wayne negotiated a treaty with the defeated nations at nearby Fort Greenville. Included among the Native signatories were representatives from the following nations: Chippewa, Delaware, Kickapoo, Miami, Shawnee, Ottawa, Potawatomi, Shawnee, Wea, and Wyandot. Questions exist, however, about the legitimacy of the Kickapoo, Shawnee, Wea, and Wyandot signatories.

The treaty, which served as a model for subsequent treaties and talks, attempted to establish peace between the United States and the Native American nations in the region and required the nations to surrender title to about two-thirds of present-day Ohio and a large section of present-day Indiana. In addition, the nations relinquished title to sixteen other smaller parcels in the Old Northwest so that the United States could use them to establish forts and trading posts. The agreement conditionally recognized the rights of the nations to their remaining lands, including the authority to drive American settlers off those lands; established new borders between the United States and the nations (commonly known as the Treaty of Greenville line); and stated that the nations could sell their remaining territory only to the United States. In return, the United States agreed to supply the signatory nations immediately with \$20,000 of trade

goods and promised to pay them annuities of \$500 or \$1,000 in goods in perpetuity. The United States also recognized the right of Native individuals to hunt on the ceded territory. Additionally, the agreement called for an exchange of prisoners and provided American citizens with a right of passage through specific points of the territory reserved by the nations.

The subsequent Native council to consider the treaty was boycotted by about half of the members of the confederated nations, who refused to recognize the negotiations and simultaneously held their own council in Detroit. The United States was also unable—or unwilling—to restrain white settlement on the reserved Indian land. In addition, Article V of the treaty allowed for the United States to usurp land at will. War broke out again in 1811 between the United States and a confederacy of nations led by Tecumseh and Tenskwatawa. With the defeat of Tecumseh's confederacy in 1813, successful Native resistance to American expansion and settler trespasses effectively ended. In 1803 Congress admitted Ohio as a state.

See also *Fallen Timbers (1794), Battle of*; *Tecumseh*; *Tenskwatawa*; *U.S. Indian Policy: Congress and the Executive, 1775–1803*; *Washington, George*; *Wayne, Anthony*.

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BIBLIOGRAPHY

- Mann, Barbara Alice. "The Greenville Treaty of 1795: Pen-and-ink Witchcraft in the Struggle for the Old Northwest." In *Enduring Legacies: Native American Treaties and Contemporary Controversies*, edited by Bruce E. Johnson, 135–201. Westport, Conn.: Praeger, 2004.
- McKee, Alexander. *Minutes of Debates in Council on the Banks of the Ottawa River (Commonly Called the Miami of the Lake), November, 1791*. Philadelphia, Pa.: William Young, Bookseller, 1792.
- Stout, David B. "The Piankashaw and Kaskaskia and the Treaty of Greene Ville." In *An Anthropological Report on Piankashaw and Kaskaskia Indians*, edited by Dorothy Libby, 343–375. New York: Garland Publishing, Inc., 1974.

Guadalupe Hidalgo (1848), Treaty of

The United States and Mexico signed the treaty ending the two-year U.S.–Mexican War (1846–1848) in Guadalupe Hidalgo, a small town near Mexico City on February 2, 1848. Mexico ceded to the United States approximately 55 percent of its territory, including the present-day states of California, Nevada, New Mexico, Utah, and Arizona, as well as parts of Colorado, Oklahoma, Nebraska, and Wyoming. Mexico recognized United States claims over Texas and

established the Rio Grande River as its border with that state. The United States paid Mexico \$15 million and recognized Spain's and Mexico's land grants in the southwest United States.

Two treaty articles put the citizenship of the Pueblo Indians and other Native peoples living in the ceded territory up for debate. Article VIII stipulated that the United States extended citizenship to Mexican citizens regardless of ancestry if they remained in ceded territories, and Article IX granted Mexicans who became U.S. citizens all the rights afforded other citizens. Yet problems soon arose due to conflicts between Mexican and U.S. citizenship laws.

After Mexico's independence from Spain, the new nation abolished racial restrictions on citizenship. This placed the Mexicans conquered by the United States—including those Indians living on the newly ceded lands—in a legally ambiguous position. At that time, the U.S. Constitution granted states the power to determine citizenship requirements, and many of them barred Indians from obtaining full citizenship rights. Debates ensued over whether states should extend the same legal status to Indians in ceded territories that belonged to the “Indian tribes” referenced in the Trade

and Intercourse Act of 1834, or if they should be extended citizenship pursuant to the treaty with all the political rights white citizens enjoyed. It was not until the twentieth century that the Pueblos were determined to be “Indians” deserving of protection under the 1834 act.

One of Mexico's concerns in negotiating the treaty was to prevent Indian tribes near its border from conducting raids into the country. Article XI of the treaty required the United States to keep Indians from crossing into Mexico and provided that the United States would compensate for losses that resulted from unrestrained incursions. The treaty also prohibited U.S. citizens from acquiring property seized by Indians in Mexico.

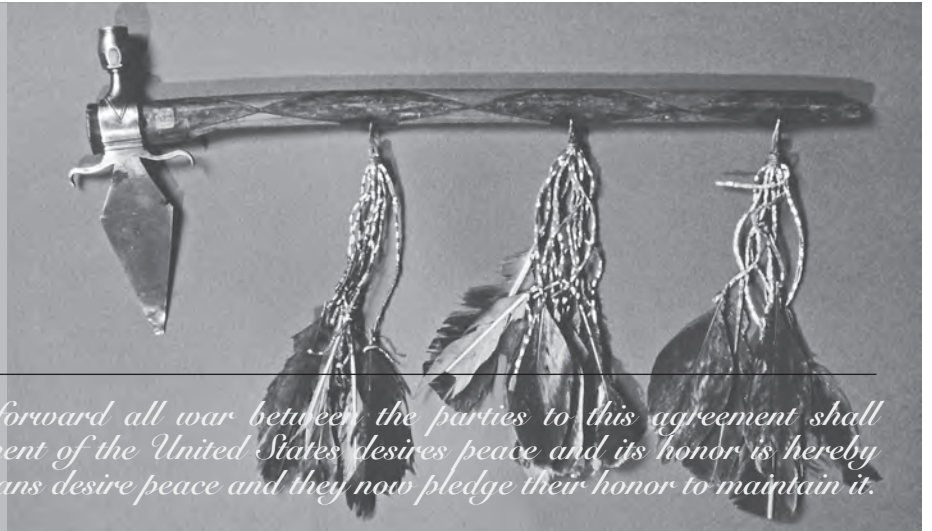
See also *Bursum Bill*; *Pueblo Lands Act*; *U.S.-Mexican War (1846–1848)*.

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BIBLIOGRAPHY

- Griswold del Castillo, Richard. *The Treaty of Guadalupe Hidalgo: A Legacy of Conflict*. Norman: University of Oklahoma Press, 1990.
- Porterfield, Jason. *The Treaty of Guadalupe Hidalgo, 1848: A Primary Source Examination of the Treaty that Ended the Mexican-American War*. New York: Rosen Publishing Group, 2006.

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Article 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they now pledge their honor to maintain it.

Hagler

Hagler (c. 1700–1763; King Hagler, Nopkehe) was the primary leader of the Catawba Indian Nation from 1750 until his death in 1763. He cemented an important alliance with the British colonial governments that helped secure Catawba autonomy and preserve the nation's cultural independence.

The exact date and place of Hagler's birth is unknown, but it is assumed that he was born in the early eighteenth century in what is present-day northern South Carolina. Known to the Catawbas as Nopkehe, in English he is usually known as Hagler. Given his long-standing and successful participation in negotiations with various British colonial governments, historians believe the English name may be derived from the term "haggler." In the spring of 1750, Hagler was chosen to be the chief of the Catawba Nation, an office known as the eractasswa. As eractasswa, Hagler pursued a policy of alliance and accommodation with the British colonial governments of South Carolina, North Carolina, and Virginia—a sensible approach given the extensive losses the Catawbas had suffered in the early eighteenth century due to warfare and disease.

Hagler led the Catawbas to end a long-standing rivalry with the Iroquois Six Nations and traveled to Albany to conclude a peace with them in 1751. During the Anglo-Cherokee War (1758–1761), the Catawbas joined the British colonials against the Cherokees and also aided them during the longer Seven Years' War (1756–1763). Hagler's negotiations secured a formal grant of territory to the Catawbas in 1763 in northern South Carolina, which became one of the first reservations. Hagler was killed in August 1763 by a party of Shawnees.

See also *French and Indian War (1754–1763)*; *Great Britain, Indian Policy of*.

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BIBLIOGRAPHY

- Merrell, James H. " 'Minding the Business of the Nation': Hagler as Catawba Leader." *Ethnohistory*, vol. 33 (Winter 1986): 55–70.
- . *The Indians' New World: Catawbas and their Neighbors from European Contact through the Era of Removal*. W. W. Norton and Company, 1991.

Hall, Louis

Louis Hall (c. 1918–1993) was a leader in the Mohawk Warrior Society, which embraced confrontational and sometimes violent methods to preserve and defend Mohawk traditions.

Hall lived on the Mohawk reserve of Kahnawake, which spanned the New York–Canadian border, and was a member of its council in the early 1970s when the Warrior Society was formed. In 1973 the Longhouse (an Iroquois kin-based community unit) at Kahnawake attempted to evict all non-Indians from the reserve. The attempt was unsuccessful and unpopular among many Mohawks. Due to this, in 1974 Hall and his allies left Kahnawake and created the settlement of Ganienkeh near Moss Lake, New York. Tensions soon erupted with the surrounding white community, resulting in two shootings. After the shootings, state authorities intervened, but the Warrior Society members resisted and remained at the site until agreeing to be resettled in Altoona, New York, in 1978. The new settlement became involved in cigarette sales, gambling, and farming.

In 1980 Hall wrote the Warrior Society manifesto, *Rebuilding the Iroquois Confederacy*, which reinterpreted the

Iroquois constitution to allow for violent strategies. In the manifesto and other writings, Hall rejected Handsome Lake's teachings and advocated for the execution of chiefs who were passive to white intrusions. He supported guerilla tactics and embraced a form of Indian supremacy which declared that whites were biologically inferior to Natives.

In 1988 the Warrior Society blocked a Montreal bridge for a month. Two years later Hall helped organize an armed seventy-eight-day stand-off between Warriors and police after a planned golf course threatened Mohawk lands near Oka, Quebec. Hall died in 1993 at the Kahnawake reserve.

See also *Constitutions, American Indian; Handsome Lake; Indian Rights Movements.*

Kristin Teigen

BIBLIOGRAPHY

- Henton, Darcy. "Father of Warriors: 'Old Fogey' or Revolutionary?" *Toronto Star*, November 25, 1990.
- Hornung, Rick. *One Nation Under the Gun: Inside the Mohawk Civil War*. New York: Pantheon, 1991.
- Landsman, Gail. "Ganienkeh: Symbol and Politics in an Indian/White Conflict." *American Anthropologist*, vol. 87, no. 4 (December 1985): 826–839.

Hallett, William E.

William E. Hallett (1942–) served as commissioner of Indian affairs during the administration of President Jimmy Carter (1977–1981). Hallett first worked as director of housing and manpower programs for the Red Lake Band of Chippewa Indians in the mid-1960s. After serving briefly as a consultant to the National Council on Indian Opportunity and on the President's National Advisory Council on Minority Business Enterprise, he joined the Bureau of Indian Affairs in 1970.

As commissioner, Hallett warned that the federal government in the recent past had failed to develop a comprehensive economic development plan for Native American communities. He observed that tremendous amounts of federal monies had gone to Indian communities for improvements in education, health care, housing, public employment, and roads. However, he warned, without substantial economic development, Indian communities would become overwhelmingly dependent upon government subsidies for survival and thereby lose both self-determination and self-sufficiency.

See also *Carter, Jimmy; Commissioner of Indian Affairs.*

Caryn E. Neumann

BIBLIOGRAPHY

- Prucha, Francis Paul. "American Indian Policy in the Twentieth Century." *Western Historical Quarterly*, vol. 15, no.1 (January 1984): 5–18.

Hampton Normal and Agricultural Institute

The Hampton Normal and Agricultural Institute was founded in 1868 in Hampton, Virginia. Founded by the American Missionary Association and supported by the Bureau of Refugees, Freedmen, and Abandoned Lands, the boarding school provided both academic and industrial education to freed slaves and later to Native Americans. Founder and first superintendent Samuel Chapman Armstrong explained that he wanted Hampton's graduates not only to become effective teachers but workers skilled enough to earn a living and provide for their own material needs.

As the goal of the Hampton school was to assimilate Indians into mainstream American society, classes were conducted only in English; students were required to wear "white man's clothing"; and the curriculum emphasized manual labor, private property ownership, Christianity, and citizenship. This approach, designed initially for freedmen, was also adopted for off-reservation schools.

Hampton's program was well formed by 1878, when Lieutenant Richard H. Pratt arrived from Florida with seventeen Indian prisoners-turned-scholars. Pratt used the Hampton model to found his own school exclusively for Indians in 1879—the Carlisle Indian Industrial School in Carlisle, Pennsylvania. Although a second off-reservation Indian industrial training school was also authorized that year, in Forest Grove, Oregon, Hampton was technically the first. From 1877 until 1923, Hampton's Indian population was small, with only 1,388 Indians of both sexes from sixty-five tribes attending during those years.

In 1891 the federal appropriation for Hampton was \$167.00 per capita for 120 Indian students. Other funding came from the state and charitable contributions. Government support for the program ended in 1923, but in 1991 the American Indian Educational Opportunities Program began to bring Native Americans back to the school, now known as Hampton University.

See also *Assimilation and Acculturation; Education: Boarding Schools; Pratt, Richard Henry.*

SuAnn M. Reddick

BIBLIOGRAPHY

- Armstrong, S. C. *Twenty-two Years Work of the Hampton Normal and Agricultural Institute*. Hampton, Va.: Hampton Normal School Press, 1893.
- Beyer, C. Kalani. "The Connection of Samuel Chapman Armstrong as both Borrower and Architect of Education in Hawai'i." *History of Education Quarterly*, vol. 47, no. 1 (2007) 23–48.
- Lindsey, Donal F. *Indians at Hampton Institute, 1877–1923*. Champaign: University of Illinois Press, 1995.
- Talbot, Edith Armstrong. *Samuel Chapman Armstrong: A Biographical Study*. New York: Doubleday, Page & Company, 1904.

Hancock, Winfield Scott

A native of Pennsylvania, Winfield Scott Hancock (1824–1886) distinguished himself at Gettysburg during the Civil War (1861–1865) and went on to serve in a number of capacities with the U.S. Army, including that of commander of the Department of the Missouri. After the Fetterman Massacre in late 1866, Hancock led U.S. troops on a march through Kansas to protect railroad workers and migrants on the Santa Fe Trail and to impress upon local Indians the futility of waging war against the United States.

In 1867 he met with representatives of the Comanches, Kiowas, Lakotas, Southern Arapahos, and Southern Cheyennes in an effort to compel those tribes to remain south of the Arkansas River. When Southern Cheyennes and Lakotas refused to cooperate, Hancock attacked and burned their village at Pawnee Fork, Kansas. This led to an outbreak of war on the Plains that helped persuade the U.S. government to rethink its general policy towards the tribes.

Soon after Hancock's provocation, he was ordered to serve as the Reconstruction governor of Louisiana. In 1869 he returned to the West to serve as commander of the Department of Dakota, a position he held until 1872. His record in that post, along with his long military history, persuaded the Democratic Party to select him as their nominee in the presidential election of 1880. Hancock lost to the Republican candidate, James Garfield.

See also *Fetterman Massacre*; *Westward Migration*.

Mitchell McNaylor

BIBLIOGRAPHY

- Hancock, Almira. *Reminiscences of Winfield Scott Hancock*. New York: C. L. Webster & Company, 1887.
- Jordan, David M. *Winfield Scott Hancock: A Soldier's Life*. Bloomington: Indiana University Press, 1988.
- Tucker, Glenn. *Hancock the Superb*. Indianapolis, Ind.: Bobbs-Merrill, 1960.

Walker, Francis. *General Hancock*. New York: D. Appleton and Company, 1894.

Handsome Lake

As a young man, Handsome Lake (1735–1815) participated in the French and Indian War (1754–1763) between the French and the English; Pontiac's Rebellion (1763–1766) between various Indian nations and the British; and the American Revolutionary War (1775–1783), during which he fought for the British. Following the American Revolutionary War, he saw the Seneca population had been decimated and their traditional lands reduced from 4,000,000 acres to fewer than 200,000 acres as factionalism, disease, and land cessions threatened the solidarity of the Iroquois League, to which the Senecas belonged.

On June 15, 1799, Handsome Lake collapsed and entered a coma, in which he experienced his first of three visions in which the Creator revealed to him a new religion and way of life for Iroquois people. The first message instructed him to preach against alcohol, witchcraft, love magic (the manipulating of power to attract a desired partner), and abortion. The second vision, one month later, revealed to him a strict moral code that he was to take to his people. His third vision, in February 1800, told him that the Seneca people were to return to the practice of important cultural ceremonies. Failure to carry out these ceremonies would result in the world's destruction by fire.

Following his visions, Handsome Lake traveled widely and preached temperance, peace, land retention, acculturation, and domestic morality. Handsome Lake next used the *Gaiwio*, or "Good Word," to develop a survival strategy that he felt would establish peace with the encroaching colonists. He lobbied the U.S. government to refrain from acquiring Seneca land and attempted to revitalize Seneca culture by adopting many of the central tenets of the civilization program administered by the Quaker missionaries. Seneca men would remain sober and become agriculturalists. Women would perform domestic chores. A Seneca village would come to roughly resemble a typical frontier settlement.

After a generation of disorder and the conversion attempts of Christian missionaries, disciples of Handsome Lake revived his words and organized them into a new religion, the Code of Handsome Lake, which was incorporated into the Longhouse religion that is still practiced today.

See also *Missions and Missionaries*.

Troy R. Johnson

BIBLIOGRAPHY

Wallace, Anthony F. C. *Death and Rebirth of the Seneca*. New York: Vintage Press, 1972.

Harmar, Josiah

Josiah Harmar (1753–1813) was born in Philadelphia, Pennsylvania, on November 10, 1753, and educated by Quakers. Harmar joined the American Revolutionary War (1775–1783) as a captain at the age of twenty-two. When the war ended, the Continental Congress chose him to deliver the ratified Treaty of Paris to Benjamin Franklin.

Harmar was promoted to brigadier general in 1787 and led several expeditions against the Indian tribes in the Ohio Valley and the Old Northwest. He established a number of fortifications throughout the territory, witnessing the treaty signing with the tribes at his namesake Fort Harmar in 1789. A year later, he commanded a force against an Indian coalition led by the Miami chief Little Turtle. Although successful at first, his outnumbered and ill-prepared troops were defeated at Kekionga, on the Maumee River, in an engagement known as the Battle of the Miami Towns. Harmar returned with a larger force and again engaged the coalition, but the fight ended in a stalemate.

After being relieved of command and replaced by General Arthur St. Clair, Harmar requested a court-martial for his negligence and failure to subdue the tribes. As the enterprise had been seen by many, including President George Washington, as a doomed operation from the start due to the lack of congressional and logistical support, he was cleared from blame. Harmar retired from the military in 1792, having served as the senior officer of the U.S. Army from 1784 to 1791. He died at his home near Philadelphia on August 20, 1813.

See also *Fort Harmar (1789)*, *Treaty of Little Turtle*; *St. Clair, Arthur*.

Stephen R. Sagarra

BIBLIOGRAPHY

Hurt, R. Douglas. *The Ohio Frontier: Crucible of the Old Northwest, 1720–1830*. Bloomington: Indiana University Press, 1996.

Prucha, Francis Paul. *The Sword of the Republic: The United States Army on the Frontier, 1783–1846*. New York: Macmillan Company, 1969.

Harney, William S.

William Selby Harney (1800–1889), a United States Army commander, gained his military reputation for his ruthless

campaigns against Indians, but concluded his public career as a government peace commissioner. Born in Tennessee in 1800, Harney received a lieutenant's commission in 1818 and began his army service on the Indian frontier with the 1825 Atkinson-O'Fallon treaty-making expedition up the Missouri River. For the next three decades, Harney's duties brought him into armed conflict with the Sac and Fox tribes during the 1832 Black Hawk War, with the Seminole tribe in Florida during the Second Seminole War (1835–1842), and with the Mexican army in the U.S.-Mexican War (1846–1848).

In 1855 Harney, now a colonel in the Second U.S. Dragoons, took command of an expedition to punish the Lakotas, who had destroyed the troops of Lieutenant J. L. Grattan near Laramie, Wyoming. Harney's forces could not locate the band responsible for the Grattan fight, so they attacked a Brule Lakota village led by Little Thunder in western Nebraska. Harney reported that his men killed eighty-six Lakota men and captured seventy women and children. A tentative peace treaty with the Dakota, Nakota, and Lakota Sioux followed at Fort Pierre in 1856. Harney was then appointed to command the Department of the West. He returned to Florida to conduct operations in the Third Seminole War (1855–1858). In 1859 Harney assumed command of the Department of Oregon.

As a southern general in the Union Army and a Jacksonian Democrat, Harney's career stalled under President Abraham Lincoln, but was revived after the 1865 election of Andrew Johnson, a fellow Tennessean. Johnson chose Harney as a member of his Indian Peace Commission, which negotiated several treaties with Plains tribes in 1867–1868. The most famous and far-reaching of these agreements was the Fort Laramie Treaty of 1868, when Harney met with former Lakota foes in an atmosphere of mutual respect and trust. This proved to be Harney's highest public service achievement.

See also *Black Hawk War (1832)*; *Fort Laramie (1868)*, *Treaty of Grattan Fight*; *Second Seminole War (1835–1842)*; *U.S.-Mexican War (1846–1848)*.

R. Eli Paul

BIBLIOGRAPHY

Adams, George Rollie. *General William S. Harney: Prince of Dragoons*. Lincoln: University of Nebraska Press, 2005.

Utley, Robert M. *Frontiersmen in Blue: The United States Army and the Indian, 1848–1865*. New York: Macmillan Company, 1967.

Harris, Fred

Fred Harris (1930–) was born in Walters, Oklahoma, and became highly active in Democratic Party politics as a prominent advocate of Native American rights. He served in the Oklahoma State Senate from 1956–1964, in the United States Senate from 1964–1972, and ran for president in 1972 and 1976 before leaving politics to join the political science department at the University of New Mexico. As both a state and U.S. senator, Harris, in partnership with his Comanche wife, LaDonna Harris, tirelessly advocated for self-determination for Indian people. His speech on the new destiny of American Indians given to Congress in 1966 outlined his commitment to bettering the conditions and opportunities available to Natives. He advocated for community action programs in Indian communities, maintaining that localized tribal control of resources was vital to economic self-sufficiency. He also supported numerous legislative measures aimed at improving Indian health care and education.

Harris played an important role in securing the restoration of the sacred Blue Lake to the Taos Pueblos. He also supported measures to protect land rights of Alaska Natives in the debate over the 1971 Alaska Native Claims Settlement Act. He supported his wife in her efforts to found two Indian advocacy organizations—Oklahomans for Indian Opportunity and Americans for Indian Opportunity—and was generally hailed as a leading expert on Indian rights by his congressional colleagues.

See also *Alaska Native Claims Settlement Act of 1971; Alaska Natives; Taos Pueblo of Blue Lake.*

Sarah Eppler Janda

BIBLIOGRAPHY

- Janda, Sarah Eppler. *Beloved Women: The Political Lives of LaDonna Harris and Wilma Mankiller*. Dekalb: Northern Illinois University Press, 2007.
- Lowitt, Richard. *Fred Harris: His Journey from Liberalism to Populism*. Lanham, Md.: Rowman & Littlefield Publishers, 2002.

Harris, LaDonna

LaDonna Harris (1931–) founded Oklahomans for Indian Opportunity (OIO) in 1965 and Americans for Indian Opportunity (AIO) in 1970. She utilized her role as the wife of U.S. senator Fred Harris (D-Okla.) to draw national attention to the conditions facing Native Americans. In the 1960s her primary focus was on improving economic and social opportunities for Native people within mainstream

society. The OIO received funding from the Office of Economic Opportunity that allowed Indian tribes to reassert tribal sovereignty through President Lyndon Johnson's community action programs. She worked with her husband to ensure the return of the sacred Blue Lake area to the Taos Pueblo Indians, to protect the land rights of Alaska Natives in the Alaska Native Claims Settlement Act of 1971, and on numerous other projects.

After serving from 1968–1970 as an original member of the National Council on Indian Opportunity, Harris grew convinced of the need for an independent organization to act as a liaison of sorts between Indian tribes and the federal government. Through her work with the AIO she has been at the forefront of some of the most significant gains in Indian self-determination in the twentieth century. The AIO has provided an important link between Indian communities, federal Indian law and policy, and policy makers. By issuing news bulletins and hosting conferences and seminars, Harris and her staff have played a crucial role in educating tribal leaders about Indian law and the practical application and responsibilities of sovereignty.

See also *Alaska Native Claims Settlement Act of 1971; Harris, Fred; National Council on Indian Opportunity; Taos Pueblo of Blue Lake.*

Sarah Eppler Janda

BIBLIOGRAPHY

- Harris, LaDonna. *LaDonna Harris: A Comanche Life*. Lincoln: University of Nebraska Press, 2000.
- Janda, Sarah Eppler. *Beloved Women: The Political Lives of LaDonna Harris and Wilma Mankiller*. De Kalb: Northern Illinois University Press, 2007.

Harrison, William Henry

William Henry Harrison (1773–1841) served in the U.S. Army during the Old Northwest Indian wars (1791–1794) and the War of 1812 (1812–1814), as governor of the Indiana Territory, and as a lawyer. In 1840 he was elected president of the United States, but died of pneumonia a month after his inauguration.

Harrison served as aide de camp to General Anthony Wayne in the 1793–1794 campaign against the Indian confederacy of the Northwest. He was present at the Battle of Fallen Timbers in 1794 and received commendation for his actions. In 1798 Harrison resigned from the army to serve in the territorial governments of Ohio and Indiana. He was appointed governor of the Indiana Territory (1800–1813),

and during his tenure he sought to acquire American title to as much Indian land as possible. Harrison concluded several land cession treaties with local tribes, including the Treaty of Vincennes (1802), the Treaty of Grouseland (1805) and the Treaty of Fort Wayne (1809). In all, Harrison's work saw the Indian cession of approximately thirty million acres and most of present-day Illinois, Indiana, Michigan, and Wisconsin.

Harrison also led forces that helped bring an end to the powerful pan-Indian confederacy in the Old Northwest. The Shawnee village of Prophetstown, in Indiana, home to Tecumseh and his brother Tenskwatawa (also known as the Shawnee Prophet), lay just outside the boundary lines established in the Treaty of Fort Wayne. Prophetstown had emerged as a center of a Nativist revitalization movement that sought to drive white settlers out of Indian territory. As governor of the Indiana Territory, Harrison feared a resurgence of an Indian confederacy and attempted to maintain order by negotiating treaties with the Delawares, Miami, and Weas. These treaties antagonized Tecumseh, and in the summer of 1811, Tecumseh met with Harrison at Vincennes and requested that the lands near Prophetstown not be surveyed by the army. After the meeting, Tecumseh traveled to the South to recruit for Tenskwatawa's movement. Knowing Tecumseh was absent, Harrison marched his army north to the Tippecanoe River near Prophetstown. On November 6, Harrison arrived at the Tippecanoe, allegedly to hold a council with Tenskwatawa the next day. Tenskwatawa prepared his warriors for a battle with the American soldiers and attacked in the predawn hours of November 7, 1811. Harrison's troops took heavy losses but defeated Tenskwatawa's forces, and his victory at the Battle of Tippecanoe earned him his nickname, "Old Tippecanoe," and gave rise to his 1840 presidential campaign slogan of "Tippecanoe and Tyler, too." The victory, however, did not quell Indian unrest in the region.

Shortly after the Battle of Tippecanoe, the War of 1812 broke out between the United States and Great Britain. Leading the western militia and then the regular army, Harrison fought the combined forces of the British and the Indians. He built Fort Meigs along the rapids of the Maumee River to prevent the British from approaching overland into the Ohio Country. This ten-acre fort withstood two sieges by enemy forces led by Tecumseh and the Indian confederacy. In the fall of 1813, Harrison led an American attack upon the retreating British army. At the Battle of the Thames, the Indian confederacy made its last stand against

the Americans. After the death of Tecumseh in battle, the confederacy deteriorated and Harrison signed an armistice with the tribes. He then solidified American land holdings with treaties at Greenville (1814) and Spring Wells (1815).

After the War of 1812, Harrison retired for a time to civilian life in Hamilton County, Ohio. In 1836 and again in 1840, he was called by the Whig party to be their presidential candidate. Harrison's reputation as an Indian fighter enhanced his prestige and helped win him the office in 1840. He became ill and died after only a month in office.

See also *Greenville (1795), Treaty of; Indian Territory; Tecumseh; Tenskwatawa; War of 1812 (1812–1814).*

Sarah E. Miller

BIBLIOGRAPHY

- Goebel, Dorothy Burne. *William Henry Harrison: A Political Biography*. Indiana Historical Collections Vol. XIV. Indianapolis, Ind.: Historical Bureau of the Indiana Library and Historical Department, 1926.
- Owens, Robert M. *Mr. Jefferson's Hammer: William Henry Harrison and the Origins of American Indian Policy*. Norman: University of Oklahoma Press, 2007.
- Sugden, John. *Tecumseh: A Life*. Henry Holt and Company: New York, 1997.

Haskell Indian Nations University

Haskell Indian Nations University in Lawrence, Kansas, has an enrollment of about eight hundred students, most of whom are Native American. Haskell was founded in 1884 as the United States Indian Training School with the aim of assimilating Indian children into the European American culture. Boys received military training and learned such skills as tailoring, wagon making, blacksmithing, harness making, painting, and farming. Girls learned cooking, sewing, and homemaking. In 1895 the school offered the first touch-typing class in Kansas. The training school evolved into a high school and a trade school before becoming a junior college in 1970, and in 1993 Haskell became a four-year college. Haskell offers bachelor's degrees in American Indian studies and environmental science with a chemistry or biological science emphasis, and associate degrees in liberal arts, health and physical education, media arts, social work, theater, natural resources, and natural science.

Many students choose to attend the 320-acre school because of its small size and its Native American population. Young adults who have never lived off the reservation and

who have had little contact with non-Indians find a comfortable atmosphere. Nevertheless, Haskell is diverse with students drawn from many different tribes. The school, funded through the Bureau of Indian Affairs, has struggled with finances, and in 2001 summer school was discontinued because of budgetary problems. Haskell is the home of the American Indian Athletic Hall of Fame.

See also *Assimilation and Acculturation; Bureau of Indian Affairs; Education: Higher Education.*

Caryn E. Neumann

BIBLIOGRAPHY

- Adams, David Wallace. *Education for Extinction: American Indians and the Boarding School Experience, 1875–1928*. Lawrence: University of Kansas Press, 1995.
- Sheets, Rosa Hernandez. "Nations Within." *Winds of Change*, vol. 13, no. 1 (Winter 1998): 12–14.

Hastings, William Wirt

William Wirt Hastings (1866–1938) was a Cherokee lawyer and politician actively involved in the implementation of federal Indian policy in the late nineteenth and early twentieth centuries. Hastings was born in Arkansas on December 31, 1866, to William Archibald Yell Hastings and Louisa J. Stover Lynch Hastings, the latter a member of the Cherokee tribe. Hastings grew up on Beatties Prairie in the Cherokee Nation where he attended Cherokee public school and later the Cherokee Male Seminary in Tahlequah. He then entered Vanderbilt University, earning his law degree in 1889.

After returning to the Cherokee Nation, Hastings practiced law and entered public service for his tribe, serving as a delegate to Washington on several occasions and as advisor to several principal chiefs. He served as superintendent of education, justice of the Cherokee Supreme Court, and attorney general of his people. As attorney for the nation, he was assigned to work with the Dawes Commission and participated in formulating the tribe's final rolls, allotting tribal lands to individual citizens, and trying cases before the Court of Claims and the U.S. Supreme Court.

In 1914 Hastings was elected to the U.S. House of Representatives. After losing his seat in the 1920 elections, he was returned to Congress in 1923 and served until retiring in 1934. As a congressman, he was active in development of Indian policy as a member of the Committee on Indian Affairs and the House Appropriations Committee. He was a prominent opponent of John Collier's Indian New Deal programs in Congress.

See also *Collier, John; General Allotment Act (Dawes Act) of 1887; Indian New Deal.*

James W. Parins

BIBLIOGRAPHY

- Thompson, William P. "W. W. Hastings." *Chronicles of Oklahoma*, vol. 16 (June 1938): 269–270.

Hawaiian Natives

See *Native Hawaiians*.

Hawkins, Benjamin

Benjamin Hawkins (1754–1816) spent most of his lifetime shaping and implementing U.S. Indian policy. He is best known for putting into effect a "civilization plan" for the southeastern Indians while he served as the U.S. agent to the Creek Nation.

Hawkins served on George Washington's staff during the American Revolutionary War (1775–1783). In 1781 he was elected to the Continental Congress. As a U.S. senator for North Carolina from 1789 to 1795, he served on several committees that oversaw U.S. Indian policy, and later he served as a commissioner to the 1785 treaties signed at Hopewell, South Carolina, with the Cherokees, Choctaws, and Chickasaws, and the 1796 Treaty of Colerain with the Creeks. He also attended the negotiations of the 1790 Treaty of New York with the Creeks.

In 1796 President George Washington appointed him to the temporary position of general superintendent of Indian affairs. During his tenure he dealt with all tribes south of the Ohio River. He then became the U.S. agent to the Creek Nation.

Hawkins focused his efforts on "civilizing" the Creeks. He encouraged the Creeks to embrace many components of American society, especially centralized government, market-oriented agriculture, and western gender norms. In short, Hawkins sought to turn Creeks into self-sufficient farmers and thereby free up thousands of acres of land to American development.

When civil war broke out among the Creeks in 1813, Hawkins and the manifestations of his civilization plan became targets for violence. Hawkins temporarily fled the agency, and his policy was widely deemed a failure. In the aftermath of the war, Hawkins helped negotiate the Treaty of Fort Jackson (1814), which resulted in the dispossession of two-thirds of Creek Country. Hawkins died in 1816.

See also *Civilization Program; Creek Civil War (1813–1814); Hopewell, Treaties of.*

Andrew K. Frank

BIBLIOGRAPHY

- Ethridge, Robbie. *Creek Country: The Creek Indians and their World*. Chapel Hill: University of North Carolina Press, 2003.
- Grant, C. L., ed. *Letters, Journals, and Writings of Benjamin Hawkins*. 2 vols. Savannah, Ga.: Beehive Press, 1980.
- Henri, Florette. *The Southern Indians and Benjamin Hawkins, 1796–1816*. Norman: University of Oklahoma Press, 1986.

Haworth, James M.

James M. Haworth (1831–1885) was appointed federal agent to the Kiowa, Comanche, and Apache tribes in 1873 and later became the first superintendent of Indian schools.

Haworth supported the policies of assimilation and acculturation, and his Quaker upbringing inspired him to attempt to change Indians through persuasion rather than intimidation. For example, he began his tenure as agent by dismissing the infantry detachment assigned to guard the Kiowa and Comanche Agency. Decisions such as this caused military personnel to call Haworth incompetent and criticize his pacifism. At the agency, Haworth cultivated relations with Kicking Bird, who supported adopting white ways, and sparred with militants like Lone Wolf.

Haworth's reports to Washington described the conditions that led to the Red River War (1874–1875), including chronic shortages of rations that the Southern Plains tribes had been promised in the 1867 Treaty of Medicine Lodge. Some accounts credit him with helping to postpone hostilities by convincing Texas governor E. J. Davis to release chiefs Santana and Big Tree from incarceration in October 1873.

By the time the war ended, Quaker agents had lost much of their authority in Oklahoma and Texas. Haworth, the last Quaker agent, contracted malaria and resigned in 1877. The following year he served on the commission that created the Pine Ridge and Rosebud reservations. For the next few years he worked as an inspector of schools for the Office of Indian Affairs.

In 1883 Haworth became the first superintendent of Indian schools. He oversaw construction of the Chillico Indian School and the United States Indian Industrial Training School (later Haskell Indian Nations University), institutions designed to remove Indian children from their own culture and educate them for integration into the dominant white culture. Haworth died in 1885.

See also *Haskell Indian Nations University; Red River War.*

Randy Wagner

BIBLIOGRAPHY

- Hiatt, Burritt M. "James M. Haworth, Quaker Indian Agent." *The Bulletin of Friends Historical Association*, vol. 47 (1958): 80–93.

Hayes, Rutherford B.

The presidency of Rutherford B. Hayes (1822–1893) from 1877 to 1881 occurred at a transitional time in U.S. Indian policy, as the federal government began moving away from the reservation system toward the allotment of Indian land.

After serving in the Civil War (1861–1865), Hayes was elected to the House of Representatives. He also served three terms as governor of Ohio before being elected president in 1877 in one of the most controversial and contested elections in American history.

After his inauguration Hayes appointed Carl Schurz as secretary of the interior. Schurz attempted to respond to calls for Indian affairs reform that were spawned by Colonel George Armstrong Custer's disastrous defeat at the Battle of Little Bighorn on June 25, 1876. Schurz fired John Q. Smith, the commissioner of the Office of Indian Affairs (OIA), and attempted to end the corruption and mismanagement in the organization. He implemented a civil service code, required inspections of agencies, and removed dishonest agents. Schurz ended the Ulysses S. Grant administration's practice of assigning agencies to religious denominations and opposed those who wanted to return the OIA from the Department of the Interior to the War Department.

The Hayes administration supported Richard Henry Pratt's boarding school ideas and the establishment of the Carlisle Indian Industrial School. It lobbied for citizenship for Native Americans and began considering the allotment of Indian land as a solution to the difficulties of administering Indian affairs. Allotment involved breaking up reservations into smaller plots of land that were then given to individual Indians. The belief was that personal land ownership would help Indians assimilate into American society more easily.

Hayes's Indian policy was also marked by the settlement of the Ponca removal affair. In 1868 the Lakota Sioux had ceded what was Ponca land in the Treaty of Fort Laramie, and the Poncas had suffered since that time from Lakota attacks. Schurz ordered the Poncas to a new reservation in the Indian Territory. After many of them died in the reloca-

tion, a presidential commission was created to investigate the conduct of the OIA. The Poncas were provided a reservation and allowed to return to their lands in Nebraska.

During the same period, the United States was completing its conquest of the tribes in the West. During Hayes' tenure as president, the U.S. Army defeated the Nez Perce, the Sioux, the Northern Cheyenne, and the Paiutes and returned them to reservations.

See also *Bureau of Indian Affairs; Carlisle Indian Industrial School; Grant, Ulysses S.; Ponca Removal; Pratt, Richard Henry; Schurz, Carl; Standing Bear; U.S. Indian Policy: Congress and the Executive, 1871–1934.*

Patit Paban Mishra

BIBLIOGRAPHY

- Fritz, Henry. *The Movement for Indian Assimilation, 1860–1890*. Philadelphia: University of Pennsylvania Press, 1963.
- Priest, Loring Benson. *Uncle Sam's Stepchildren: The Reformation of United States Indian Policy, 1865–1887*. New Brunswick, N.J.: Rutgers University Press, 1942.
- Prucha, Francis Paul. *The Great Father: The U.S. Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Utey, Robert M., and Wilcomb E. Washburn. *Indian Wars*. Boston: Houghton Mifflin, 1977.

Herring, Elbert

The third and final head of the Office of Indian Affairs, as well as the first commissioner of Indian affairs, Elbert Herring (1777–1876) gained his position when Samuel S. Hamilton was fired as the head of the Indian Office in the War Department on August 12, 1831. President Andrew Jackson nominated Herring to replace him. Despite having no previous experience in Indian affairs, Herring ran the department for the next five years.

Herring took over at a time the U.S. government was involved in developing its removal policy, which sought to relocate the Indian tribes in the states west of the Mississippi River. He justified the policy in five annual reports, calling it necessary for the continued existence of Indians currently residing in the East and describing it as “humane.” Herring oversaw the negotiation of a number of treaties that eventually led to the forced removal of almost all of the major eastern tribes. He met several times with Cherokee leaders John Ross, the principal chief who opposed removal, and John Ridge, who advocated the signing of a removal treaty. In December 1835 Herring's agent, John F. Schermerhorn, negotiated the now infamous Treaty of New Echota, in which a few dissident Cherokees ceded all of the land east of

the Mississippi that belonged to their nation in exchange for \$5 million and other considerations.

In his 1832 annual report, Herring stated that he wanted to continue funding Indian schools and other assimilation programs, for he believed that Indians needed to become acculturated to the American way of life, including farming, individual property ownership, and Christianity, in order to survive as a “race.” He left office in 1836.

See also *Indian Removal Act (1830); Jackson, Andrew; New Echota, Treaty of; Removal; Ridge Family; Ross, John.*

Justin Corfield

BIBLIOGRAPHY

- Satz, Ronald N. *American Indian Policy in the Jacksonian Era*. Lincoln: University of Nebraska Press, 1975.
- . “Elbert Herring, 1831–36.” In *The Commissioners of Indian Affairs, 1824–1877*, edited by Robert M. Kvasnicka and Herman J. Viola, 13–16. Lincoln: University of Nebraska Press, 1979.

Hickel, Walter J.

Walter Joseph Hickel (1919–) served as secretary of the interior from 1969–1970. He had just finished serving as governor of Alaska (1965–1969) when President Richard Nixon appointed him to his cabinet. Once secretary, Hickel favored giving Alaska Natives less than fifty thousand acres and a cash settlement in payment for their land rights. He appointed Morris Thompson, an Alaska Native, to the position of special assistant to the secretary for Indian affairs.

Nixon wanted Hickel to find a Republican Native American who was an outsider to the Bureau of Indian Affairs (BIA) to head the organization. Leaders of the National Congress of American Indians and the National Indian Youth Council put forth their own candidates. Hickel, however, sided with Nixon and appointed Louis R. Bruce as commissioner of Indian affairs in the summer of 1969.

Before Nixon's forceful message about Indian self-determination in July 1970, many Indian leaders suspected Hickel of favoring termination, and some Indian groups called for his removal. At the National Congress of American Indians convention in Albuquerque, New Mexico, in November 1969, young Indian militants loudly opposed Hickel during his speech. Relations between Hickel and Indian leaders improved as he increased the number of federal contracts awarded to tribes and proposed reforms for the BIA. He also approved the hiring of more Indians for top BIA positions.

Despite these actions, the White House faulted Hickel for not formulating new Indian policies that advanced the pres-

ident's goals for Native Americans. Nixon fired Hickel in November 1970 for writing a letter criticizing his policies in Vietnam.

See also Bruce, Louis R.; Nixon, Richard M.; *Self-Determination*.

Sterling Fluharty

BIBLIOGRAPHY

- Castile, George Pierre. *To Show Heart: Native American Self-Determination and Federal Indian Policy, 1960–1975*. Tucson: University of Arizona Press, 1998.
- Day, Robert C. "The Emergence of Activism as a Social Movement." In *Native Americans Today: Sociological Perspectives*, edited by Howard M. Bahr, Bruce A. Chadwick, and Robert C. Day, 506–532. New York: Harper & Row, 1972.
- Kotlowski, Dean J. *Nixon's Civil Rights: Politics, Principle, and Policy*. Cambridge, Mass.: Harvard University Press, 2001.

Historians and Historiography

The literature on federal Indian policy is extensive and covers a wide range of topics, spanning the years from early colonial-Indian relations to the self-determination era in place by the early twenty-first century. For more than half a century, historians have used government documents as their main source of research for analyzing and writing major studies about federal Indian relations. More recently, scholars have also begun to use ethnographic evidence and oral history in what is often referred to as the "New Indian History."

Colonial Era

To best understand the major works about federal Indian policy, the literature can be divided into types and eras. The first category is early colonial-Indian relations, which lasted until the early formation of the U.S. government and the establishing of U.S.-Indian relations under the country's first president, George Washington.

The civil rights protests and Indian activism of the 1960s encouraged scholars and the media to focus on Native peoples, and both academic and commercial presses became interested in publishing studies of colonial-Indian relations. Two notable works in this area were Allen Trelease's *Indian Affairs in Colonial New York: The Seventeenth Century*, which appeared in print from Cornell University Press in 1960, and Alden Vaughan's *New England Frontier: Puritans and Indians 1620–1675*, published by Little, Brown and Company in 1965.

As Trelease's and Vaughan's works covered broad time periods and regions, works that followed began to focus on

narrower topics. Wilbur Jacobs introduced academia to the importance of U.S.-Indian trade relations with his 1972 classic, *Dispossessing the American Indian: Indians and Whites on the Colonial Frontier*. Gary Nash presented the interrelations and relations with the new United States of three important racial groups in his 1974 classic *Red, White, and Black: The Peoples of Early America*. Colonial treatment of Indians is the subject in Bernard Sheehan's *Savagism & Civility: Indians and Englishmen in Colonial Virginia*, published in 1980, and Colin Calloway's 1987 *Crown and Calumet: British Indian Relations, 1783–1815*. A year later, notable ethnohistorian Francis Jennings wrote *Empires of Fortune: Crowns, Colonies & Tribes in the Seven Years War in America* (1988).

Recent scholarship of colonial-tribal relations includes Richard White's *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815* (1991); James Merrell's *The Indians' New World: Catawbas and Their Neighbors from European Contact through the Era of Removal* (1991); and Kathleen Duval's *The Native Ground: Indians and Colonists in the Heart of the Continent* (2006).

Early Republic

The colonies revolting against England altered tribal relations with the colonies and among the tribes themselves. Barbara Graymont's 1972 *The Iroquois in the American Revolution* was one of the early works on U.S.-Indian relations during the American Revolution. Of more recent scholarship are Colin Calloway's *The American Revolution in Indian Country: Crises and Diversity in Native American Communities* (1995) and Alan Taylor's *The Divided Ground: Indians, Settlers, and the Northern Borderland of the American Revolution* (2006).

At first the Americans sought to make the Indians their allies in the fight against the British, but soon after the war the new United States government took a new stance—one that saw the Indian as the enemy. This is described in Wiley Sword's 1985 *President Washington's Indian War: The Struggle for the Old Northwest, 1790–1795* and Barbara Mann's 2005 *George Washington's War on Native America*.

Washington's policy of trying to keep the Indian nations as allies continued until Thomas Jefferson established a different course in the early 1800s. Jefferson viewed Native people as having the capability to become civilized farmers like white Americans. Francis Paul Prucha produced the first major study of Jefferson's policy of civilization and expansion with his *American Indian Policy in the Formative Years: The Indian Trade and Intercourse Acts, 1790–1834*, published in

1962. Reginald Horsman offered another view in his 1967 *Expansion and American Indian Policy, 1783–1815*. More than ten years later, Bernard Sheehan produced the first prominent work on this Indian policy in his classic *Seeds of Extinction: Jeffersonian Philanthropy and the American Indian* (1973).

Although his revealing book does not focus entirely on Jeffersonian Indian policy, Richard White's *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815* (1991) describes how Indians and the imperial powers constructed “middle grounds” of mutually beneficial relations and how the encroachment of the United States into the region brought an end to that equanimity of power. Gregory Evans Dowd described the impact of Native revitalization movements on federal policy in his 1992 *A Spirited Resistance: The North American Indian Struggle for Unity, 1745–1815*. In a slightly more recent work, noted anthropologist Anthony F. C. Wallace penned *Jefferson and the Indians: The Tragic Fate of the First Americans* (1999), in which he details Jefferson's views on land and Indians as possible citizens.

Removal

Jefferson's Indian policy continued until more white settlers pushed westward and began demanding Indian land to farm and build homesteads. Indian removal became the primary goal of Native policy under Andrew Jackson, famed Indian fighter, who was elected president in 1828. His administration passed the Indian removal bill two years later, which called for ninety-four removal treaties to be negotiated and gave congressional authorization to spend \$500,000 to help relocate Indian populations to areas west of the Mississippi River. This policy resulted in devastation for Indian people. This era captured the attention of scholars as early as Grant Foreman with his 1932 book *Indian Removal: The Emigration of the Five Civilized Tribes*, published by the University of Oklahoma Press. Two years later, respected scholar Angie Debo published her first award-winning book, *Rise and Fall of the Choctaw Republic* (1934), also printed by the University of Oklahoma Press. Many years later, Arthur DeRosier Jr. wrote *The Removal of the Choctaw Indians* (1970). In that same year, Reginald Horsman published *The Origins of Indian Removal* (1970).

For the most part, Indian removal literature has focused on the removal of individual tribes, such as Debo's book and Gary E. Moulton's 1978 *John Ross: Cherokee Chief*, Michael Green's 1982 *The Politics of Removal: Creek Government and*

Society in Crisis, Thurman Wilkins' 1986 *Cherokee Tragedy: The Story of the Ridge Family and the Decimation of a People* (2nd ed.), and William G. McLoughlin's 1986 *Cherokee Renascence in the New Republic*.

Few scholars have attempted the daunting task of telling the entire story of Indian removal, rather than focusing on a particular tribe. Dale Van Every accomplished this task in his *Disinherited: The Lost Birthright of the American Indian* (1966). Herman Viola, noted scholar, wrote *Thomas L. McKenney: Architect of America's Early Indian Policy, 1816–1830* (1974). Criticism of Andrew Jackson's Indian policy appeared in two works published in 1975, Ronald Satz's *American Indian Policy in the Jacksonian Era* and Michael Rogin's *Fathers and Children: Andrew Jackson and the Subjugation of the American Indian*.

Recent scholarship has focused on the Jackson administration and the creation of the Indian removal policy. These works include Robert Remini's 2001 *Andrew Jackson and His Indian Wars*, Tim Alan Garrison's 2002 *The Legal Ideology of Removal: The Southern Judiciary and the Sovereignty of Native American Nations*, and Amy H. Sturgis's 2006 *The Trail of Tears and Indian Removal*.

Black Hawk's biography (several editions) and William Apress's 1836 speech on Pequot history (which criticized New England hypocrisy regarding removal) are also noteworthy as early examples of Native voices in the literature of the removal policy.

The Civil War

As the United States expanded beyond the Mississippi, tension increased between states which enslaved Africans to grow cotton and states in the North, which opposed the practice of slavery. The outbreak of the Civil War (1861–1865) led to a new Indian policy while Abraham Lincoln was in the White House. This policy is best articulated in the 1978 work *Lincoln and the Indians: Civil War Policy and Politics*, written by David A. Nichols. Indian groups were torn between supporting the North or the South. Confederate Indian policy was examined in Robert Duncan's *Reluctant General: Life and Times of Albert Pike* (1961) and the more updated *Jefferson Davis and the Confederacy and Treaties Concluded by the Confederate States with Indian Tribes* (1977), by Ronald V. Gibson. *Fighting Rebels and Red Skins: Experiences in Army Life of Colonel George B. Sanford 1861–1892* (1969), by E. R. Hagemann, was one of the earliest main works on Indians fighting in the Civil War, followed by two important works by Laurence Hauptman: *The*

Iroquois in the Civil War: From Battlefield to Reservation (1993) and *Between Two Fires: American Indians in the Civil War* (1995). Christine Schultz White and Benton R. White described the role of the Creeks during the fighting with their 1996 *Now the Wolf Has Come: The Creek Nation in the Civil War*.

Indians as victims of the Civil War are the focus of Stan Hoig's *The Sand Creek Massacre* (1961), as well as in Gary Clayton Anderson's *Little Crow: Spokesman for the Sioux* (1986). A broad coverage of U.S.-Indian relations during this period can be found in Brian Dippie's impressive 1985 work, *The Vanishing American: White Attitudes and U. S. Indian Policy*.

Peace Policy and War in the West

The years of Reconstruction for the United States yielded a "Peace Policy" introduced by President Ulysses S. Grant. The repaired federal government hoped that Indians could be assimilated into mainstream America society, as documented by Henry E. Fritz in *The Movement for Indian Assimilation, 1860–1890* (1963). One of the most important treaties to occur during this period was the Medicine Lodge Treaty (actually a series of three treaties) that moved several tribes onto specific reservations in the West. This development is the subject of the important 1966 Douglas Jones work, *The Treaty of Medicine Lodge: The Story of the Great Treaty Council as Told by Eyewitnesses*. A significant examination of Grant's Peace Policy can be found in Lawrie Tatum's *Our Red Brothers and the Peace Policy of President Ulysses S. Grant* (1970). A more recent work on the subject is Norman J. Bender's *New Hope for the Indians: The Grant Peace Policy and the Navajos in the 1870s* (1989).

Studies on specific tribes during the Peace Policy era include Stan Hoig's *The Peace Chiefs of the Cheyennes* (1980); Clyde Milner's *With Good Intentions: Quaker Work among the Pawnees, Otos, and Omahas in the 1870s* (1982); and Thom Hatch's *Black Kettle: The Cheyenne Chief Who Sought Peace but Found War* (2004). Works that cover the policy effects in a more general sense include *Indian Treaty-Making in the United States and Canada 1867–1877* (2001) by Jill St. Germain, and *American Indian Treaties: The History of a Political Anomaly* (1994) by Francis Paul Prucha. These two books address the making of, and types of, U.S.-Indian agreements during the period.

The failure of the Peace Policy caused the federal government to go to war against the Indian nations. Often overlapping with the documenting of military history, important studies evolved with the following: Carl Coke Rister's *Border*

Command: General Phil Sheridan in the West (1944), a combination of biography, military history, and Indian policy history; Francis Paul Prucha's *Broadax and Bayonet: The Role of the United States Army in the Development of the Northwest, 1815–1860* (1953); William H. Leckie's *The Military Conquest of the Southern Plains* (1963); Mark H. Brown's *The Flight of the Nez Percé* (1971); Richard N. Ellis's *General Pope and U.S. Indian Policy* (1970); William T. Hagan's *United States Comanche Relations* (1976); and Clifford Trafzer's *The Kit Carson Campaign: The Last Great Navajo War* (1982). Other studies of the topic include Paul Andrew Hutton's *Phil Sheridan and His Army* (1985); Robert M. Utley's *The Lance and the Shield: The Life and Times of Sitting Bull* (1993); Elliott West's *The Contested Plains: Indians, Goldseekers and the Rush to Colorado* (1998); and the most recent work of Gary Clayton Anderson, *The Conquest of Texas: Ethnic Cleansing in the Promised Land, 1820–1875* (2005). Dee Brown's *Bury My Heart at Wounded Knee: An Indian History of the American West* (1971) had a dramatic impact on the popular opinion of U.S. Indian policy in the 1970s.

The defeat of the Indian nations led to their confinement on reservations, where conditions were often very poor and few educational or health services were offered. The literature for this era begins with the true classic by Helen Hunt Jackson, *A Century of Dishonor: The Early Crusade for Indian Reform*, a powerful critique of U.S. policy originally published in 1881 by Harper Brothers. Two important autobiographies by Natives from this period are Chief Joseph's *That All People May Be One People: Send Rain to Wash the Face of the Earth* (1879) and Sarah Winnemucca Hopkins' *Life Among the Piutes: Their Wrongs and Claims* (1883).

William T. Hagan made one of the earliest studies on the reservation era in his 1966 *Indian Police and Judges*. Other works on the subject include Robert Winston Mardock's *The Reformers and the American Indian* (1971); Robert Trennert Jr.'s *Alternative to Extinction: Federal Indian Policy and the Beginning of the Reservation System, 1846–51* (1975); Loring Benson Priest's *Uncle Sam's Stepchildren: The Reformation of United States Indian Policy, 1865–1887* (1975); Francis Paul Prucha's *American Indian Policy in Crisis: Christian Reformers and the Indian, 1865–1900* (1976); and Gerald Thompson's *The Army and the Navajo: The Bosque Redondo Reservation Experiment 1863–1868* (1976).

Other important works are Francis Paul Prucha's *American Indian Policy in Crisis: Christian Reformers and the Indian, 1865–1900* (1976); Gerald Thompson's *The Army and the Navajo: The Bosque Redondo Reservation Experiment*

1863–1868 (1976); William T. Hagan's *The Indian Rights Association* (1985); H. Henrietta Stockel's *Shame and Endurance: The Untold Story of the Chirichua Apache Prisoners of War* (2006); and Clara Sue Kidwell's *The Choctaws in Oklahoma: From Tribe to Nation, 1855–1970* (2007). Studies about legal relations with Indians during this era of policy include Charles Wilkinson's *American Indians, Time, and the Law: Native Societies in a Modern Constitutional Democracy* (1987); Sidney L. Harring's *Crow Dog's Case: American Indian Sovereignty, Tribal Law, and United States Law in the Nineteenth Century* (1994); and Blue Clark's *Lone Wolf v. Hitchcock: Treaty Rights & Indian Law at the End of the Nineteenth Century* (1994). A recent work on Indian Country in general during the period is William E. Unrau's *The Rise and Fall of Indian Country, 1825–1855* (2007).

Education and Boarding Schools

Mission and federal boarding schools were introduced shortly after Indians were confined to reservations. General studies on boarding schools include Margaret Connell Szasz's *Education and the American Indian: The Road To Self-Determination Since 1928* (1974); David Wallace Adams' *Education for Extinction: American Indians and the Boarding School Experience, 1875–1928* (1995); and more recently, Jacqueline Fear-Segal's *White Man's Club: Schools, Race, and the Struggle of Indian Acculturation* (2007).

Other school studies include Francis Paul Prucha's *The Churches and the Indian Schools 1888–1912* (1979); Robert Trennert's *The Phoenix Indian School: Forced Assimilation in Arizona, 1891–1935* (1988); Basil H. Johnston's *Indian School Days* (1989); Devon Mihesuah's *Cultivating the Rosebuds: The Education of Women at the Cherokee Female Seminary, 1851–1909* (1993); K. Tsianina Lomanwaima's *They Called It Prairie Light: Story of Chilocco Indian School* (1994); Clyde Ellis's *To Change Them Forever: Indian Education at the Rainy Mountain Boarding School, 1893–1920* (1996); Brenda J. Child's *Boarding School Seasons: American Indian Families, 1900–1940* (1998); and Scott Riney's *The Rapid City Indian School, 1898–1933* (1999).

Two personal accounts written by Natives who attended boarding schools are Charles Eastman's *From the Deep Woods to Civilization* (1977) and Elizabeth Q. White's *No Turning Back: A Hopi Indian Woman's Struggle to Live in Two Worlds* (1992). Another personal account was written by Richard Henry Pratt, the man who started the model of Indian boarding schools. His book is entitled *Battlefield and Classroom: Four Decades with the American Indian, 1867–1904*.

Also worth mentioning are the accounts of Arthur LaFlesche, Luther Standing Bear, Gertrude Bonnin (Zitkala-Sa), and other Native progressives who used their educations to criticize federal policy and shift it in the direction of self-determination.

Allotment and Assimilation

As a part of the civilization and assimilation process, the federal government passed the General Allotment Act (Dawes Act) of 1887. This act broke reservations into smaller parcels of land that were then given, or “allotted” to individual Indians. The belief was that owning land as did white Americans, would help the Indians become assimilated more quickly. Two prominent studies directly on allotment are D. S. Otis's *The Dawes Act and the Allotment of Indian Lands*, (1973) and Janet McDonnell's *Dispossession of the American Indian* (1991). Related studies include Angie Debo's *And Still the Waters Run: The Betrayal of the Five Civilized Tribes* (1940), which has been reprinted by the University of Oklahoma Press; Frederick Hoxie's *A Final Promise: The Campaign to Assimilate The Indians, 1880–1920* (1984); Francis Paul Prucha's *American Indian Policy in Crisis* (1984); Terry Wilson's *The Underground Reservation: Osage Oil* (1985); William T. Hagan's *Theodore Roosevelt and Six Friends of the Indian* (1997); Melissa Meyer's *The White Earth Tragedy: Ethnicity and Dispossession at a Minnesota Anishinaabe Reservation, 1889–1920* (1999); and Emily Greenwald's *Reconfiguring the Reservation: The Nez Percés, Jicarilla Apaches, and the Dawes Act* (2002).

Indian New Deal

The U.S. government's effort to assimilate Indians into mainstream American society continued until the *Meriam Report* was published in 1928. Developed by a task force of social scientists, the report condemned the allotment policy. Prior to this, however, Indians had already been pressuring for reform. Works on this topic include Peter Iverson's *Carlos Montezuma and the Changing World of American Indians* (1982) and Lucy Maddox's *Citizen Indians: Native American Intellectuals, Race, and Reform* (2005). The stock market crash in 1929 and the Great Depression substantiated that a new federal policy was necessary. The Indian Reorganization Act (IRA) of 1934, also known as the Wheeler-Howard Act, was a simplified and diluted version of the bill originally sponsored by Commissioner of Indian Affairs John Collier. Collier had hoped to institute sweeping reform to federal Indian policy through what was referred to as the “Indian New Deal.”

Vine Deloria Jr.'s 2002 *The Indian Reorganization Act* tackles the act itself. Other books focus on John Collier and the administration of the IRA, such as Kenneth Philp's *John Collier's Crusade for Indian Reform, 1920–1954* (1977); David W. Daily's *Battle for the BIA: G. E. Lindquist and the Missionary Crusade Against John Collier* (2004); and Lawrence Kelly's *The Assault on Assimilation: John Collier and the Origins of Indian Policy Reform* (1983). Graham Taylor, in his 1980 work *The New Deal and American Indian Tribalism: The Administration of the Indian Act* wrote on how the tribes applied the provisions of the IRA. A recent work on this part of the IRA is *On the Drafting of Tribal Constitutions* (2007) by Felix S. Cohen, edited by David E. Wilkins.

Other major studies about the policy's effects on specific tribes include Lawrence Kelly's *The Navajos and Federal Indian Policy, 1900–1935* (1968); Donald Parman's *The Navahos and the New Deal* (1976); Laurence Hauptman's *The Iroquois and the New Deal* (1981); and Tom Bilosi's *Organizing the Lakota: The Political Economy of the New Deal on the Pine Ridge and Rosebud Reservations* (1997). A major study on federal-tribal years of the IRA is Tom Holms, *The Great Confusion in Indian Affairs: Native Americans and Whites in the Progressive Era* (2005).

Termination

After World War II (1939–1945) yet another Indian policy replaced the Indian New Deal. During the termination era, the federal government sought to reduce its financial responsibilities for Indian tribes, including its trusteeship position over the Native reservations. This occurred with the passage of the House Concurrent Resolution 108 in 1953. Major works about this policy include Larry Burt's *Tribalism in Crisis: Federal Indian Policy, 1953–1961* (1985); Donald L. Fixico's *Termination and Relocation: Federal Indian Policy, 1945–1960* (1986); and Kenneth R. Philp's *Termination Revisited: American Indians on the Trail of Self-Determination, 1933–1953* (1999). Dillon S. Myer was serving as the commissioner of Indian affairs when termination began, and an important study of him can be found in Richard Drinnon's *Dillon S. Myer and American Racism* (1987).

The termination of certain tribes has been documented in Nicholas Peroff's *Menominee DRUMS: Tribal Termination and Restoration, 1954–1974* (1982); Thomas W. Cowger's *The National Congress of American Indians: The Founding Years* (2001); Warren R. Metcalf's *Termination's Legacy: The Discarded Indians of Utah* (2002); James B. LaGrand's *Indian Metropolis: Native Americans in Chicago, 1945–75* (2002); and

Edward Charles Valandra's *Not Without Our Consent: Lakota Resistance to Termination, 1950–59* (2006).

Self-Determination

As termination continued into the 1960s, Native people rebelled against it and the efforts of the government to relocate them in urban areas. That era of Indian activism has been chronicled in the following works: Vine Deloria Jr.'s *Custer Died For Your Sins: An Indian Manifesto* (1969); Laurence Hauptman's *The Iroquois Struggle for Survival: From World War II to Red Power* (1986); Troy R. Johnson's *The Occupation of Alcatraz Island: Indian Self-Determination and the Rise of Indian Activism* (1996); Paul Chaat Smith and Robert Allen Warrior's *Like A Hurricane: The Indian Movement from Alcatraz to Wounded Knee* (1996); Troy R. Johnson, Joane Nagel, and Duane Champagne's *American Indian Activism: Alcatraz to the Longest Walk* (1997); *Red Power: The American Indians' Fight for Freedom* (1971; edited by Alvin M. Josephy Jr., Joane Nagel, and Troy R. Johnson); and Adam Fortunate Eagle's *Heart of the Rock: The Indian Invasion of Alcatraz* (2002). On Leonard Peltier and the suppression of AIM, see Peter Matthiessen's *In the Spirit of Crazy Horse* (1992) and Steve Hendricks, *The Unquiet Grave: The FBI and the Struggle for the Soul of Indian Country* (2007). A balanced study of federal-Indian affairs of the 1960s can be found in Thomas Clarkin's *Federal Indian Policy in the Kennedy and Johnson Administrations 1961–1969* (2001). Autobiographies from significant activists of the period include Russell Means' *Where White Men Fear to Tread* (1996) and *Ojibwa Warrior: Dennis Banks and the Rise of the American Indian Movement* by Dennis Banks and Richard Erdoes (2005).

While Indian activism and the American Indian Movement continued into the 1970s, the relocation program produced a large urban Indian population. Major works on the urbanization of Indian people are Hazel Hertzberg's *The Search for An American Indian Identity: Pan-Indian Movements* (1971), Elaine M. Neils' *Reservation to City* (1971), Alan L. Sorkin's *The Urban American Indian* (1978), and Donald L. Fixico's *The Urban Indian Experience in America* (2000). Jeanne Guillemin's *Urban Renegades: The Cultural Strategy of American Indians* (1975) deals with the urbanization of Native people in Canada.

Studies about Native peoples in particular urban areas include Joyotpaul Chaudhuri's *Urban Indians of Arizona: Phoenix, Tucson, and Flagstaff* (1974); Edmund Danziger Jr.'s *Survival and Regeneration: Detroit's American Indian Community* (1991); Joan Weibel-Orlando's *Indian Country, L.A.: Maintaining Ethnic Community in Complex Society* (1991); and

James B. LaGrand's *Indian Metropolis: Native Americans in Chicago, 1945–1970* (2002).

In 1975 Congress passed the Indian Self-Determination and Education Assistance Act. This is the prevailing policy and many works have been written on the topic. A sampling includes Alan L. Sorkin's *American Indians and Federal Aid* (1971), Jack Forbes' *Native Americans and Nixon* (1972), Stephen Cornell's *The Return of the Native: American Indian Political Resurgence* (1988), Sharon O'Brien's *American Indian Tribal Governments* (1990), and George Pierre Castile's *To Show Heart: Native American Self-Determination and Federal Indian Policy, 1960–1975* (1998.) Three comprehensive works about this era of Indian policy are Charles Wilkinson's *Blood Struggle: The Rise of Modern Indian Nations* (2005); Renee Ann Cramer's *Cash, Color, and Colonialism: The Politics of Tribal Acknowledgement* (2005); and George Pierre Castile's *Taking Charge: Native American Self-Determination and Federal Indian Policy, 1975–1993* (2006).

Studies about self-determination and its impact on individual tribes can be found in *The Modern Sioux Social Systems and Reservation Culture* (1970; edited by Ethel Nurge), John R. Finger's *Cherokee Americans: The Eastern Band of Cherokees in the Twentieth Century* (1991), *Zuni Courts and the Struggle for Sovereign Land Rights* (1995; edited by E. Richard Hart), Harry A. Kersey Jr.'s *An Assumption of Sovereignty: Social and Political Transformation among the Florida Seminoles, 1953–1979* (1996), and Loretta Fowler's *Tribal Sovereignty and the Historical Imagination: Cheyenne-Arapaho Politics* (2002).

Studies about specific Indian issues related to self-determination include Fay G. Cohen's *Treaties on Trial: The Continuing Controversy over Northwest Indian Fishing Rights* (1986), Robert Doherty's *Disputed Waters: Native Americans & the Great Lakes Fishery* (1990), Lloyd Burton's *American Indian Water Rights and the Limits of Law* (1991), Donald L. Fixico's *The Invasion of Indian Country in the Twentieth Century: Tribal Resources and American Capitalism* (1998), and Mark Edward Miller's *Forgotten Tribes: Unrecognized Indians and the Federal Acknowledgement Process* (2004).

Two important studies on Indian gaming are W. Dale Mason's *Indian Gaming: Tribal Sovereignty and American Politics* (2000) and Steven Andrew Light and Kathryn R. L. Rand's *Indian Gaming and Tribal Sovereignty: The Casino Compromise* (2007).

The History of U.S. Policy

Broad surveys of federal Indian policy include S. Lyman Tyler's *A History of Indian Policy* (1973); Francis Paul Prucha's

The Great Father: The United States Government and the American Indian, 2 vols. (1984); Theodore W. Taylor's *American Indian Policy* (1984); *American Indian Policy in the Twentieth Century* (1985; edited by Vine Deloria Jr.); *Native Americans and Public Policy* (1992; edited by Fremont J. Lyden and Lyman H. Legters); and John R. Wunder's *Retained by the People: A History of American Indians and the Bill of Rights* (1994).

Important studies on U.S.-Indian relations continue to appear on bookshelves every year as federal Indian policy continues to evolve and grow. In the twenty-first century, Indian leaders have finally become partners with the U.S. government in shaping the programs and regulations that affect their social, cultural, and religious lifeways.

More than likely, the scholarship on the history of U.S. Indian policy will continue to be rethought and revised as scholars from Native American communities become increasingly active in critiquing the subject.

Donald L. Fixico

Homestead Act of 1862

Although some scholars consider the Homestead Act of 1862 as one of the most important pieces of Congressional legislation in American history, it was a complete disaster for American Indians.

The act authorized American citizens (excluding people of color and women) to acquire Western lands at no cost by settling and remaining on the lands for a period of five years. They were also required to make improvements to the land by farming it, building homes upon it, or other related activities. Congress intended to encourage non-Indian settlers to occupy and encroach upon Indian lands, forming “a rough, ready, and cheap border militia” (Eric Kades, *The Dark Side of Efficiency*, 2000). The act, along with the General Allotment Act (Dawes Act) of 1887, resulted in the decline of Indian land holdings from 175 million acres to approximately 40 million acres. As the settlers were forced to make the required improvements to the land at their own expense, they were more likely to confront and fight Indians rather than retreat from the area.

Some scholars allege that the act created conditions that led to at least three of the bloodiest and vicious Indian wars: the Apache Wars (1871–1873), the Modoc War (1872–1873), and the Sioux wars (1874–1877). The sudden presence of large numbers of non-Indian settlers led to the devastation of Indian cultures and forced tribal communities to choose

between reservation life or assimilation into mainstream American society.

See also *Apache Wars*; *Black Hills*; *Modoc War*; *Westward Migration*.

Matthew L. M. Fletcher

BIBLIOGRAPHY

- Allen, Douglas W. "Homesteading and Property Rights, or, 'How the West Was Really Won.'" *Journal of Law and Economics*, vol. 34 (April 1991): 1–23.
- Anderson, Terry L., and Peter J. Hill. "Cowboys and Contracts." *Journal of Legal Studies*, vol. 31 (June 2002): S489–S514.
- Gates, Paul W. "The Homestead Law in an Incongruous Land System." *American Historical Review*, vol. 41 (July 1936): 652–681.
- Kades, Eric. "The Dark Side of Efficiency: *Johnson v. M'Intosh* and the Expropriation of Indian Lands." *University of Pennsylvania Law Review*, vol. 148 (April 2000): 1065–1190.

Hoover, Herbert

Scholars have categorized Herbert Hoover's (1874–1964) Indian policy as a "transitional period" that bridged the old assimilationist era of the late nineteenth and early twentieth centuries and the new era of Indian self-determination and cultural preservation that began in the mid-1930s. As a child, Hoover had lived for a year on the Osage reservation in Indian Territory, and his maternal aunts and uncles worked with Native Americans in Oregon. Consequently, Hoover knew something about the challenges and shortcomings of reservation life, and his Quaker heritage gave him an interest in helping Indian peoples.

Upon his election as president in 1929, Hoover offered fellow Quaker Charles J. Rhoads the position of commissioner of Indian affairs at the Office of Indian Affairs (OIA). After receiving assurances that Hoover would back the reforms outlined in Lewis Meriam's *The Problem of Indian Administration* (or, as it is often referred to, the *Meriam Report*), Rhoads accepted.

Hoover labored to improve the quality and efficiency of Indian bureau personnel. After a year's study, Commissioner Rhoads implemented a plan calling for the division of the Indian service into five areas—health, education, agricultural extension and industry, forestry, and irrigation—each headed by qualified experts who exercised direct executive and administrative powers over their respective divisions.

Indian education during the Hoover years emphasized practical and vocational instruction. W. Carson Ryan, director of Indian education, encouraged parents to enroll their children in public schools where they could learn how white

Americans worked and earned money. The Hoover administration promoted Indian arts and crafts as a means of promoting economic self-sufficiency, and Commissioner Rhoads worked to establish an organization of traders to help market the goods and guarantee authenticity.

Of particular concern to Hoover was the allotment system's continued erosion of the Indian land base. To counter the problem, the OIA under Rhoads suggested that tribes be empowered to develop corporate bodies, particularly on reservations possessing timber, oil, minerals, or water. Rhoads also recommended the government create a special Indian claims commission.

Another Native affairs issue confronting the Hoover administration was that of reimbursable debt, which was a process of collecting charges against Indians for irrigation projects constructed with federal loans. In many instances, officials had never even consulted the affected tribes about the projects. To remedy this, in 1932 Congress passed the Leavitt Act, which canceled all outstanding debts, freeing Indians of liens totaling millions of dollars.

Unfortunately, the Great Depression that so devastated the economy derailed many of the Hoover administration's reform efforts, as government funding and interest in Indian reform receded in the face of the national emergency. During the "Indian New Deal" of the mid-1930s, however, Commissioner of Indian Affairs John Collier built on many of the reforms initiated during the Hoover years.

After leaving office, Hoover served as chair of the Commission on Organization of the Executive Branch of the Government. The Hoover Commission, as it came to be called, was responsible for finding ways to cut federal expenditures by eliminating waste and duplication. One of the committee's recommendations was that the federal government eliminate tribal services and prepare Native Americans for total assimilation into the majority society. Consequently, some scholars have charged the commission with being partly responsible for the government's adoption of the termination policy.

See also *Collier, John*; *Hoover Commission*; *Meriam Report*; *Rhoads, Charles J.*; *U.S. Indian Policy: Congress and the Executive, 1871–1934*; *U.S. Indian Policy: Congress and the Executive, 1928–1946*.

Thomas A. Britten

BIBLIOGRAPHY

- Britten, Thomas A. "Hoover and the Indians: The Case for Continuity in Indian Policy, 1900–1933." *The Historian*, vol. 61 (Spring 1999): 519–538.

Downes, Randolph C. "A Crusade for Indian Reform, 1922–1934." *Mississippi Valley Historical Review*, vol. 32 (December 1945): 331–354.

Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.

Kvasnicka, Robert M., and Herman J. Viola. *The Commissioners of Indian Affairs, 1824–1977*. Lincoln: University of Nebraska Press, 1979.

Tyler, S. Lyman. *A History of Indian Policy*. Washington, D.C.: Bureau of Indian Affairs, United States Department of the Interior, 1973.

Hoover Commission

In 1947 President Harry S. Truman appointed the Commission on Organization of the Executive Branch of the Government to find ways for the national government to reduce public expenditures by reducing waste, duplicate efforts, and inefficiency. He selected former president Herbert Hoover to lead the organization. The subsequent Hoover Commission report (1948) had significant implications for Indian policy. It argued that Indian assimilation remained the best solution to "the Indian problem" and should become the dominant goal of public policy. Pending achievement of that goal, the commission recommended that the administration of social programs for Native Americans be transferred to state governments, but that states were entitled to reimbursement from the federal government for administering those programs until the Indians' trust status had expired and they were able to pay taxes.

The commission also made recommendations about the tenure and qualifications of reservation personnel, and suggested that reservation superintendents be delegated greater authority. The commissioner of Indian affairs, meanwhile, was to be a professional, permanent administrator, and since the Department of the Interior assumed political responsibility for the Bureau of Indian Affairs (BIA), the secretary of the interior ought to appoint the commissioner. Finally, the Hoover Commission recommended that, pending the discontinuance of all specialized Indian-related activities on the part of the federal government, the BIA be transferred to a new department for social security, education, and Indian affairs.

While Congress refrained from adopting several of the recommendations, including the transfer of the BIA from the Department of the Interior, the Hoover Commission report gave additional impetus to congressional efforts to terminate federal services to Indian tribes during the early 1950s. House Resolution 698, for example, directed BIA staff members to report on the ability of Indians to manage

their own affairs as a prelude to transferring services to other federal agencies or to the states.

See also *Assimilation and Acculturation; Bureau of Indian Affairs; Hoover, Herbert; Termination and Restoration; Trust Lands*.

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BIBLIOGRAPHY

Fixico, Donald L. *Termination and Relocation: Federal Indian Policy, 1945–1960*. Albuquerque: University of New Mexico Press, 1986.

Freeman, John Leiper, Jr. "A Program for Indian Affairs: Summary of the Report of the Hoover Commission Task Force on Indian Affairs." *American Indian*, vol. 7 (Spring 1954): 48–62.

"Summary of Reports of the Hoover Commission." *Public Administration Review*, vol. 9 (Spring 1949): 73–99.

Tyler, S. Lyman. *A History of Indian Policy*. Washington, D.C.: Government Printing Office, 1973.

Hopewell (1785–1786), Treaties of

The Treaties of Hopewell refer to three separate treaties concluded between the government of the United States (under the authority of the Continental Congress) and the Cherokee, Choctaw, and Chickasaw Indian nations. The treaties were all negotiated at the Hopewell plantation of South Carolina political and military leader Andrew Pickens. The treaties were concluded on November 28, 1785, and January 3 and 10, 1786, respectively.

The negotiation on the Treaties of Hopewell was put in motion by the Continental Congress in 1784. The Congress's Committee on Indian Affairs submitted a report in May 1784 proposing the United States' policy towards the Indian nations in the southern department. Congress ultimately acted on the report and published its own findings in March 1785. Congress desired that the commissioners ensure that the southern nations affirm the Treaty of Paris (1783) and recognize the sovereignty of the United States. It also hoped to secure agreements that could provide for the repatriation of prisoners, confirm boundaries between Indian and settler communities, and establish frameworks for future trade and land transfer agreements between the Indians and the United States. Five commissioners were chosen to direct negotiations with the southern nations: Benjamin Hawkins, Lachlan McIntosh, Joseph Martin, William Peery, and Andrew Pickens. All the men but Peery would be at Hopewell.

The Cherokees were the initial focus of negotiations at Hopewell. Negotiations between the four federal commis-

sioners and the Cherokee leaders (the Tassel of Chota took the lead in negotiating for the Cherokees) lasted from November 18 through November 28, 1785. The major sticking point in negotiations was the boundary line between the Cherokee villages and the American settlements. Ultimately, both parties agreed to a slight modification of a 1777 boundary, which angered observers from North Carolina and Georgia, who were hoping for a more substantial grant of land to the states and their settlers. The treaty also confirmed the authority of Congress to appoint Indian agents and to regulate trade between the Cherokees and the American settlers.

During the negotiations with the Cherokees, word reached Hopewell that delegations from the Choctaws and Chickasaws were en route. All the commissioners except McIntosh remained to negotiate. Both the later two treaties contained substantially the same general terms that had been concluded with the Cherokees.

The Hopewell treaties ultimately proved ineffectual in halting tensions between the Indian nations and the growing population of American frontier settlers, and new negotiations between the United States and the Indian nations were undertaken in the years following the adoption of the Constitution. In later years, proponents of tribal sovereignty would point to provisions in the treaties and claim that the United States had recognized the tribes as sovereign nations, while opponents of tribal sovereignty would offer the protection and regulation of trade clauses as evidence that the tribes had surrendered their sovereignty to the United States.

See also *Indian Policy of the Continental Congress; Sovereignty; Treaties: Historical Overview.*

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BIBLIOGRAPHY

- Kappler, Charles J., ed. *Indian Affairs: Laws and Treaties*. 5 vols. Washington, D.C.: Government Printing Office, 1904–1941.
- Prucha, Francis Paul. *American Indian Treaties: History of a Political Anomaly*. Berkeley: University of California Press, 1994.

Hopi-Navajo Relations

Navajo (Diné) and Hopi traditional narratives hold that these two peoples emerged from the earth into what is the present-day Southwest at the same moment. In at least one version of the Navajo creation narrative, the *Diné bahañè* (“story of the people”), the Navajo and Pueblo peoples meet

each other in the fourth of five worlds. There the Pueblo people took the Navajos in as kin and gave them seeds with which to begin growing their own crops. There are periods of strife as well in this narrative.

Far from being traditional or “ancient enemies,” as the U.S. government has tried to label them on occasion, the Navajo and Pueblo peoples, including the Hopis, have a long history of trade and intermarriage, as well as intermittent conflict on a relatively small scale, but they have always lived together and shared land and still retain cultural traditions of this common history. After the Pueblo Revolt of 1680, for example, when the Spanish returned to reinvade and reconquer the Southwest between 1692 and 1696, many Pueblos moved west and took up residence with the Navajos and the Hopis.

Conflict between the two nations has generally been the result of pressures for land imposed by successive invasions, first by the Spanish, then by the Mexicans, and finally by the United States after its annexation of Mexican lands won in the U.S.-Mexican War (1846–1848).

Both Navajos and Hopis farm and herd, but have displayed different emphases on each during different historical periods. The Navajos were farmers before they turned to sheep herding, a change that was probably the result of the influence of Pueblo refugees, who brought sheep culture with them in the 1690s. In the twentieth century, both Native economies were increasingly disrupted by the wage-labor system of U.S. capitalism, which impoverished both communities.

The United States government initiated a war against the Navajos in the early 1860s, spearheaded by the scorched-earth tactics of Christopher “Kit” Carson, the purpose of which was to open Navajo lands in present-day north central and western New Mexico for U.S. settlement. This war ended in defeat for the tribe, culminating in the forced march of half the Navajo people in 1863–1864 (known as the “Long Walk”) to an internment camp at Fort Sumner (Bosque Redondo) in eastern New Mexico territory. The Navajos lived in deplorable conditions at the camp until the United States was compelled to sign a treaty with them in 1868 that created the beginnings of a reservation in north-eastern Arizona and the edge of northwestern New Mexico.

The expansion of this reservation in 1878 and 1880 brought the increasingly concentrated Navajo population into direct contact with the mesas of the Hopis. The Hopis, who had never signed any treaties with the United States, were in the process of being organized by the federal gov-

ernment—a process they were attempting to resist as best they could in the face of ever-growing U.S. political control. It was these conditions that led in 1882 to the beginning of the so-called Navajo-Hopi Land Dispute, which was characterized in the 1962 Supreme Court decision *Healing v. Jones* as “the greatest title problem of the West.”

The Navajo-Hopi Land Dispute

The Navajo-Hopi Land Dispute began on December 16, 1882, when, at the request of Secretary of the Interior Henry M. Teller, President Chester Arthur created a reservation by executive order. This reservation enclosed 2.5 million acres, or 3,900 square miles, encompassing the three mesas on which all but two of the present-day twelve Hopi villages are located.

The secretary himself was responding to a complaint from the federal agent for the Hopi, J. H. Fleming, who had asked Commissioner of Indian Affairs Hiram Price to evict two Anglos from the region because they were aiding Hopi families in resisting federal attempts to send their children to boarding schools. Price informed Fleming that the government had no power to evict anyone from what was then designated as public land under U.S. law. Therefore, Fleming asked that the land in question be designated a reservation, because once it became federal land he would have the power to evict the Anglos.

As a result, what became known as the “1882 reservation” was primarily created not because of a conflict between Navajos and Hopis, but because of a conflict between the federal government and Hopi families. Despite not being involved with its creation, however, three to six hundred Navajos (out of a population of approximately sixteen thousand) found themselves living with the approximately 1,800 Hopis (virtually the entire Hopi population) within the reservation’s borders. Indeed, the language of the executive order stated that the reservation was not only for the Hopis, but also “for such other Indians as the Secretary of the Interior may see fit to settle thereon.” In 1962 the *Healing* decision would find that those “other Indians” were the Navajo and their descendants whose traditional lands had been enclosed by the 1882 reservation.

Between 1882 and 1958, there were no legal or legislative directives issued involving the 1882 reservation; all changes on the reservation were brought about by administrative rulings within the Department of the Interior in response, at least in part, to population growth. By 1958 there were an estimated 8,800 Navajos and over 3,000 Hopis living on the

1882 reservation. During this period, the federal government was working to segregate Navajos and Hopis on the reservation, which, along with population pressures, helped to polarize the two communities. In the mid-1930s, the Office of Indian Affairs (OIA) created Grazing District 6, which comprised approximately 650,000 acres including and immediately surrounding the Hopi mesas. Additionally, the OIA forbade Hopis from grazing their livestock or living beyond this area without the issuance of permits. At the same time, Congress consolidated the twenty-five thousand square miles of the Navajo reservation, which by then completely enclosed the 1882 reservation and added to Hopi fears about being overwhelmed by the Navajo presence.

In the 1950s the Navajo and Hopi tribal councils, under the direction of two Anglo lawyers, John Boyden for the Hopis and Norman Littell for the Navajos, began to develop a legal agenda to decide which tribe held both the surface and subsurface (mineral) rights to the 1882 reservation. Both tribes, under a 1946 ruling by the Interior Department, shared the subsurface mineral rights. To implement this legal agenda, Congress passed Public Law 885-547 on July 22, 1958, which waived the sovereign immunity of both tribes so that they could sue one another in federal court.

Passage of the Act of July 22, 1958, resulted in the *Healing v. Jones* lawsuit, which was named after the two tribal chairs at the time, Dewey Healing of the Hopis and Paul Jones of the Navajos. The federal district court in Arizona decided the suit in 1962, and the Supreme Court affirmed the decision “without comment” in June 1963. The decision designated Grazing District 6 as the official Hopi reservation and appointed the remaining 1.85 million acres of the 1882 reservation as the Joint Use Area (JUA), which was to be shared by the Navajos and Hopis who lived there. However, the JUA was used almost exclusively by the Navajos, because customary living patterns resulted in most of the Hopis remaining relatively close to the three mesas. The decision did not change the 1946 Department of the Interior ruling on shared subsurface rights.

Operating under the auspices of the federal government, this collaboration, not to say collusion, between Navajo and Hopi tribal councils at the instigation of lawyers representing mineral interests (years later, it was proven that John Boyden, the lawyer for the Hopi Tribe, also represented Peabody Coal) is what drove the succeeding stages of the Navajo-Hopi Land Dispute.

Navajo and Hopi Indian Land Settlement Act of 1974

After ten years of lobbying by the Hopi tribal council, which felt that the Navajos were dominating use of the JUA, Congress passed the Navajo and Hopi Indian Land Settlement Act of 1974. The act mandated that the two tribes negotiate for the partition of the JUA, and that if the negotiations failed, the federal district court in Arizona would draw the partition line. Predictably, the negotiations failed, and the court ordered the partition of the land. The process began in February 1977 and eventually created the Hopi Partitioned Lands (HPL) and the Navajo Partitioned Lands (NPL). While only one hundred Hopis found themselves on the Navajo side of the line and thus were forced to relocate by the court, approximately fifteen to seventeen thousand Navajos found themselves on the Hopi side.

The court ordered Navajos living on the HPL to be relocated by the Bureau of Indian Affairs (as the Office of Indian Affairs had been renamed in 1947) to border towns or to lands added to the reservation for this purpose. Often these lands were distant from the homes and families of those relocated, which led to devastating social effects such as mental illness, substance abuse, and violence. Relocation was opposed not only by Navajos living on the HPL, but also by traditional Hopi leaders who viewed the collaboration between the Hopi tribal council and the U.S. government as a violation of traditional Hopi ways. This united front between traditional Hopi leaders and HPL Navajos is another example of the long history of Navajo-Hopi cooperation.

The partitioning of the JUA and the subsequent relocations of thousands of Navajos over the succeeding twenty years was the result of over a hundred years of ill-advised U.S. policy decisions and legal cases. In 1988, in response to the relocation mandate, a group of Navajos living on the HPL brought suit in the federal district court in Arizona to remain on the land. In *Manybeads v. United States*, the principal argument advanced by the HPL Navajos was violation of their First Amendment religious rights, and they sought to assert the sacredness of the land to the community. The suit was dismissed. By that time perhaps three thousand Navajos still remained on the HPL. In 1991 the Ninth Circuit Court of Appeals, in lieu of hearing an appeal of the *Manybeads* case, ordered all the groups involved into mediation in an attempt to resolve the dispute. The result of this mediation was the Navajo-Hopi Land Settlement Act of 1996, which included an Accommodation Agreement (AA).

The act provided HPL Navajos who wished to remain on their lands with the option of signing the AA, which is a lease agreement guaranteed by the United States. Each lease is between the HPL Navajos, the Navajo Nation, and the Hopi tribe. The agreement permits the HPL Navajo to remain on his or her land for seventy-five years, after which time any one of the parties to the AA can discontinue it. Thus, the Hopis have retained the right to eventually evict all Navajos from the HPL if they so choose.

Legal initiatives attempting to reverse the settlement acts of 1974 and 1996 appear to have ended in April 2000, with the Ninth Circuit Court of Appeals' affirmation of the district court's dismissal of the *Manybeads* case. As of 2006, local estimates calculated that between five hundred and one thousand Navajos remained on the HPL.

See also *Bosque Redondo*; Carson, Christopher "Kit"; Guadalupe Hidalgo (1848), *Treaty of Land Claims Settlement Acts*; Price, Hiram; *Reservations*; Teller, Henry M.

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BIBLIOGRAPHY

- Bailey, Garrick, and Roberta Glenn Bailey. *A History of the Navajos: The Reservation Years*. Santa Fe, N.M.: School of American Research Press, 1986.
- Benedek, Emily. *The Wind Won't Know Me: A History of the Navajo-Hopi Land Dispute*. Norman: University of Oklahoma Press, 1999.
- Brugge, David. *The Navajo-Hopi Land Dispute: An American Tragedy*. Albuquerque: University of New Mexico Press, 1994.
- Cheyfitz, Eric. "The Navajo-Hopi Land Dispute: A Brief History." *Interventions*, vol. 2, no. 2 (2000): 248–275.
- . "Theory and Practice: The Case of the Navajo-Hopi Land Dispute." *American University Journal of Gender, Social Policy, and the Law*, vol. 10, no. 3 (2002): 619–632.
- Courlander, Harold. *The Fourth World of the Hopis: The Epic Story of the Hopi Indians as Preserved in Their Legends and Traditions*. Albuquerque: University of New Mexico Press, 1971.
- Indian Law Resource Center. "Report to the Hopi Kikmongwis and Other Traditional Hopi Leaders on Docket 196 and the Continuing Threat to Hopi Land and Sovereignty." Washington, D.C.: Indian Law Resource Center, 1979.
- Iverson, Peter. *Diné: A History of the Navajos*. Albuquerque: University of New Mexico Press, 2002.
- Johnson, Broderick H., ed. *Navajo Stories of the Long Walk Period*. Tempe, Ariz.: Navajo Community College Press, 1973.
- Kammer, Jerry. *The Second Long Walk: the Navajo-Hopi Land Dispute*. Albuquerque: University of New Mexico Press, 1980.
- Ortiz, Alfonso, ed. *Handbook of North American Indians*. Vol. 9. Washington, D.C.: Smithsonian Institution, 1979.
- Redhouse, John. *Geopolitics of the Navajo Hopi Land Dispute*. Albuquerque: Redhouse/Wright Publications, 1985.
- Wilkinson, Charles F. "Home Dance, the Hopi, and Black Mesa Coal: Conquest and Endurance in the American Southwest." *Brigham Young University Law Review* (1996): 449–482.

Zolbrod, Paul G. *Diné bahañè: The Navajo Creation Story*. Albuquerque: University of New Mexico Press, 1984.

Horse, John

Also known as Gopher John and Juan Caballo, John Horse (c. 1812–1882) was a Seminole Maroon who fought during the Second Seminole War (1835–1842) and one of the primary advocates for Seminole autonomy in post-removal Indian Territory.

Born a slave in Florida, Horse escaped and joined a community of African Maroons (slaves who ran away from their masters) who were allied with the Seminole Indians in the Florida interior. During the Second Seminole War, he emerged as a leader in the Maroon community and served as an advisor and interpreter for Osceola, Alligator, and other prominent Seminoles.

Horse eventually accepted an offer from the United States in 1838 to remove west in return for a promise of freedom. However, even after Horse led several hundred African Seminoles to the Indian Territory, they found themselves still threatened by slave raiders. Additionally, Creek officials tried to control the Seminoles who moved into their nation.

Horse returned to Florida in 1842 to help the United States convince many Seminole militants to surrender and accept removal. In 1844 Horse and Coacoochee (“Wild Cat”), an influential Seminole leader, returned east to plead unsuccessfully with Washington officials for a separate Seminole reservation. When the Seminoles eventually obtained a separate reservation, Horse’s security was threatened anew by Attorney General John Mason’s declaration that Seminole Maroons were considered runaway property and eligible for reenslavement.

Horse, Coacoochee, and more than three hundred Africans, Seminoles and Kickapoos fled to Mexico where they established new communities. Horse temporarily returned to the United States during the Civil War (1861–1865) and served as a scout in the U.S. Army. After the war he returned to Mexico, where he continued to strengthen the black Seminole community. He died in 1882 in Mexico City.

See also *Indian Territory; Osceola; Removal; Second Seminole War.*

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BIBLIOGRAPHY

Miller, Susan A. *Coacoochee’s Bones: A Seminole Sage*. Lawrence: University of Kansas Press, 2003.

Mulroy, Kevin. *Freedom on the Border: The Seminole Maroons in Florida, the Indian Territory, Coahuila, and Texas*. Lubbock: Texas Tech University Press, 1993.

House Concurrent Resolution 108 (1953)

Congress passed House Concurrent Resolution (H.C.R.) 108 in August 1953. The bill provided congressional support for the policy of termination—the removal from trust status, the end of federal supervision, and the dissolution of federal recognition of Indian tribes in the United States. While H.C.R. 108 specifically targeted only five tribes—the Flathead tribe of Montana, the Klamaths of Oregon, the Menominees of Wisconsin, the Potawatomis of Kansas and Nebraska, and the Turtle Mountain Chippewas of North Dakota—all tribes in California, Florida, Iowa, New York, and Texas were subject to it. The bill laid the foundation for the introduction of numerous other termination bills.

Passage of H.R.C. 108 and similar bills required each named tribe to develop a plan for termination. Legislation was then introduced to terminate individual tribes. Only passage of the final termination plan by Congress could effect termination upon a tribe. Many termination bills were introduced between 1953 and 1955 and underwent a lengthy passage process, usually including a vote by the tribal community in question. Actual termination did not occur until years after passage of an initial bill naming a tribe for termination. The Menominees, for example, were designated for termination in H.C.R. 108 in 1953, but were not officially terminated until 1961.

While H.C.R. 108 passed during the Dwight Eisenhower administration, the impetus for the withdrawal of federal supervision of Indians began in the postwar years of the Harry Truman administration, when the commissioner of the Bureau of Indian Affairs, Dillon S. Myer, advocated for the removal of federal supervision and Senator Arthur V. Watkins of Utah made similar arguments promoting termination in Congress. Lawmakers such as these, through H.C.R. 108, initiated a process that resonated through Indian Country and Congress for decades.

See also *Removal; Termination and Restoration.*

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BIBLIOGRAPHY

Fixico, Donald. *Termination and Relocation: Federal Indian Policy, 1945–1960*. Albuquerque: University of New Mexico Press, 1986.

- Metcalfe, R. Warren. *Termination's Legacy: The Discarded Indians of Utah*. Lincoln: University of Nebraska Press, 2002.
- Peroff, Nicholas C. *Menominee DRUMS: Tribal Termination and Restoration, 1954–1974*. Norman: University of Oklahoma Press, 1982.
- Philp, Kenneth. *Termination Revisited: American Indians on the Trail to Self-Determination, 1933–1953*. Lincoln: University of Nebraska Press, 1999.
- Wilkinson, Charles F., and Eric R. Biggs. "The Evolution of the Termination Policy." *American Indian Law Review*, vol. 5 (1977): 139–84.

Housing

The lack of safe, sanitary, and affordable housing has been a serious problem in Indian Country since the United States began placing American Indians onto restricted, remote reservation lands. Most American Indians on reservations were living in trailers, wooden shanties, or log cabins well into the 1960s.

The problem finally grew to such a magnitude and the disparity between living conditions on reservations and in the rest of the United States became so apparent that the federal government created a new Indian housing program in the Department of Housing and Urban Development (HUD) in 1962. HUD acted in response to a 1961 Department of Interior task force report that demonstrated the compelling need for federal assistance for Indian reservation housing. HUD's predecessor, the Public Housing Administration, had extended its low-rent public housing program to Indian Country, but it chose not to allow tribal governments to operate these programs. Instead, tribes were required to establish tribal housing authorities under tribal or state law to operate them. These Indian housing authorities were required to be quasicorporate bodies separate from the tribal government.

In the mid-1960s, HUD developed the Mutual Help program to encourage homeownership in Indian Country and the low-rent program. In 1965 Congress amended the 1937 Housing Act and for the first time expressly directed HUD to assist low-income families in areas under tribal jurisdiction, further defining these responsibilities in 1968, 1974, 1988, and 1990. In response to these congressional charges, in 1968 and 1976 HUD established new programs to try to serve the housing needs of reservation inhabitants. HUD also created the Office of Indian Housing, which was later renamed the Office of Native American Programs.

This federal assistance provided a measure of much-needed housing relief in Indian Country. By the end of 1993,

nearly 100,000 reservation housing units had been funded by HUD. Despite this, in 1996 a HUD report estimated that to serve the needs of Indian Country approximately fifty thousand new homes still needed to be built, approximately sixteen thousand existing homes needed to be replaced, and another forty thousand existing homes needed to be renovated. This demonstrated that Natives in Indian Country lived in substandard housing without adequate space, kitchen facilities, or sanitary services at a rate far exceeding that of Americans living in off-reservation locations.

Congress responded to this report and to the need for housing in Indian Country by enacting the Native American Housing Assistance and Self-Determination Act in 1996 (NAHASDA). Congress funded the act the first year by appropriating \$600 million, far exceeding the Clinton administration's request for only \$485 million.

The NAHASDA significantly expands the tribal role in developing and managing housing and mandates that federal housing assistance "should be provided in a manner that recognizes the right of Indian self-determination and tribal self-governance." Congress stated that the primary objective of the act was to serve low-income Indian families by providing affordable housing. It also stated for the first time that the United States "has assumed a trust responsibility . . . for working with tribes and their members to improve their housing conditions and socioeconomic status." Congress provides the federal housing money in block grants to be paid directly to a tribe or their Tribally Designated Housing Entity (TDHE), reducing the amount of control HUD had over these monies. The act mandates that a formula be developed for dividing the federal housing funds amongst the more than five hundred Indian tribes. To receive a grant, a tribe or its TDHE has to draft one- and five-year housing plans demonstrating how it would use federal money to serve its housing needs and how it would protect this federal investment. Tribes and TDHEs are required to undergo audits and file performance reports that HUD must review. Finally, the federal government agrees to guarantee monies that tribes or TDHEs might borrow from private lenders to develop even more housing than the limited federal funds could provide. This demonstrates Congress's wish that tribes leverage the federal funds and raise private money to help develop additional housing.

Significantly, Congress directed that Indian tribes and Alaska Natives were to work with HUD representatives to draft the federal regulations to control the operation of the NAHASDA, and they were to use the federal process set out

in the Negotiated Rulemaking Act. This collaboration had a difficult start as HUD officials tried to improperly control the process and the resulting regulations. Tribal leaders objected and took command of the process after contentious negotiations in meetings in December 1996 and January 1997. The tribes decided that the rules would be drafted by consensus rulemaking, but HUD officials predicted that rules would never be completed in the twelve months allowed for negotiations when just one objecting tribe could stop the process. After this initial struggle with HUD, however, the "neg-reg" committee got to work, and after diligent efforts it drafted regulations in just over two months. HUD published the draft rules, but it made many changes to them without informing or consulting with the tribes. The tribal representatives objected strenuously, and they forced HUD to withdraw these unilateral changes. The regulations were ultimately finalized as the tribes wished.

The NAHASDA worked fairly smoothly in its first decade. A need for more housing and for renovating existing housing in Indian Country still continues, but Congress, HUD, and Indian tribes are beginning to work cooperatively to address this serious issue. The NAHASDA was amended in 2000 to address the housing needs of Native Hawaiians.

See also *Congress, United States; Native Hawaiians.*

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BIBLIOGRAPHY

- Ferrell, Susan J. "Indian Housing: The Fourth Decade." *St. Thomas Law Review*, vol. 7 (Summer 1995): 446–460.
- Miller, Robert J., and Dean B. Suagee. *Land Use and Financing Under the New Indian Housing Law*. American Bar Association Section of Natural Resources, Energy, and Environmental Law conference materials (November 20–21, 1997).
- Native American Housing Assistance and Self-Determination Act of 1996*, Public Law 104-330, 104th Cong., 2d sess. (October 26, 1996).
- Ulmer, Mark K. "The Legal Origin and Nature of Indian Housing Authorities and the HUD Indian Housing Programs." *American Indian Law Review*, vol. 13 (1987–1988): 109–174.
- U.S. Department of Housing and Urban Development. *Assessment of American Indian Housing Needs and Programs: Final Report*. Washington, D.C.: Government Printing Office, 1996.

Houston, Sam

Sam Houston (1793–1863), president of the Republic of Texas, held Cherokee citizenship and negotiated a removal treaty. When put to work as a store clerk in 1809 at age sixteen, he ran away to live with Chief Jolly, leader of the Western branch of the Cherokees, on the banks of the

Hiawassee River in Tennessee. Jolly viewed Houston as his adopted son and named him "The Raven." The Indians with whom Houston most closely associated operated large plantations with slaves and mercantile establishments.

Houston left the Cherokees in 1812 and spent eight months teaching school in Maryville, Tennessee. In March 1813 he enlisted in the U.S. Army. He fought in Andrew Jackson's campaign against the Red Stick Creek Indians in Alabama and was badly wounded at the Battle of Horseshoe Bend in 1814. After recovering, he remained in the army and became subagent to the Cherokees in October 1817. Most of Houston's assignments involved encouraging the Indians to move westward. Although Houston did not sign the Cherokee removal treaty, he conducted most of the negotiations. This treaty, signed in 1817, proved more favorable than the removal Treaty of New Echota, in which a small number of dissident Cherokees agreed to the removal of their nation. Houston felt considerable pride in removing the Cherokee to the Arkansas River Valley, a land which he thought was beyond the encroachment of white society. Houston resigned from the army and as Indian agent in 1818.

Houston then moved to Nashville, where he briefly practiced law and became a major general in the Tennessee militia. A devout Jacksonian, Houston was elected to the U.S. House of Representatives in 1823 and reelected in 1825. When his second term ended, he ran successfully for governor of Tennessee in 1827. Supposedly one of the most eligible bachelors in the country, Houston married Eliza Allen in 1829. Less than three months later, for reasons that remain unclear, his wife returned to her parents. The separation caused a public uproar. Deeply depressed, Houston resigned his post and returned to live with Chief Jolly.

On October 21, 1829, Houston became a Cherokee citizen. Knowing that the Cherokees did not trust white men and wanting to become as much like his Indian friends as possible, Houston adopted all of the manners of the Cherokees. He reportedly refused to speak English and began to wear some Cherokee garb. In 1830 he married Diana (or Tiana) Rogers, who was part Cherokee. The marriage ended when Houston left for Texas in 1832.

Houston publicly declared that he moved to Texas to seek an arrangement with the Comanches that would facilitate the peaceful settlement of the southeastern tribes in the Indian Territory. The opportunity for financial gain and a return to public life may also have been in his thoughts. He settled in Nacogdoches and practiced law. In 1835 Houston was appointed commander in chief of the Texas army and

fought in the Texas War for Independence (1835–1836) against Mexico. After the war, he served two terms as president of the Texas republic, the first beginning in 1836. After Texas was annexed into the United States, Houston was elected to the U.S. Senate (1846). He died in 1863.

See also *Army, United States; Creek Civil War (1813–1814); Jackson, Andrew; Removal; Texas.*

Caryn E. Neumann

BIBLIOGRAPHY

- Brands, H. W. *Lone Star Nation: The Epic Story of the Battle for Texas Independence*. Norwell, Mass.: Anchor Press, 2005.
- Gregory, Jack, and Rennard Strickland. *Sam Houston with the Cherokees, 1829–1833*. Norman: University of Oklahoma Press, 1967.
- Haley, James L. *Sam Houston*. Norman: University of Oklahoma Press, 2004.

Howard, O. O.

Oliver Otis Howard (1830–1909) was a career army officer renowned for his leadership in the American Civil War (1861–1865) and for his determined service in the Indian wars in the West.

Howard was born in Leeds, Maine, and graduated from both Bowdoin College (1850) and the United States Military Academy (1854). His initial experience with Native Americans came in 1857, when he was stationed at Fort Brooke, Florida, during the Third Seminole War (1855–1858). Howard was assigned the task of finding Chief Billy Bowlegs to offer a peace agreement, but Bowlegs surrendered before a settlement could be discussed, and the diminished Seminoles were pushed into the Everglades.

Howard returned to West Point in September of 1858 to become an instructor of mathematics. He served in the Civil War as a corps commander, participating in many significant battles, and was awarded the Congressional Medal of Honor for his heroic actions at Fair Oaks.

After the Civil War, General Howard championed freedom and equality for former slaves. He became the director of the Freedman's Bureau and helped found the Institute for the Education of Preachers and Teachers in Washington, D.C., which was later renamed Howard University in his honor.

In 1872 President Ulysses S. Grant, wishing to bring an end to the Apache Wars (1871–1873) in southeastern Arizona, dispatched Howard, as Indian commissioner, to make peace with Cochise, chief of the Chiricahua group of Apaches. Howard convinced Cochise to agree to abstain from attacks in exchange for reservation land in eastern

Arizona. The peace, however, did not last. Cochise died in 1874 and his people were sent to another reservation. Still, Howard's compassionate efforts brought peace to a number of tribes including the Apaches, Papagos, and the Pimas, and he helped create new reservations for Native Americans in Seattle and throughout the Northwest.

In the year of Cochise's death, Howard was placed in command of the Department of the Columbia. He traveled west to Oregon's Fort Vancouver in 1877, where he attempted to persuade a Nez Perce band led by Chief Joseph to leave their homeland in the Wallowa Valley for the reservation assigned to them in Lapwai, Idaho. In spite of his sympathies for Chief Joseph and his band, Howard did not hesitate to send troops against them after Nez Perce warriors killed several white settlers. After Chief Joseph's surrender, Howard argued, without success, that the Nez Perce should be allowed to keep their homeland. Howard became nationally renowned for his relationship with Chief Joseph, whom he greatly respected.

Howard's last career dealings with Native Americans came in 1878, when the army sent him to quell a Bannock uprising in the Pacific Northwest. The Bannocks, who had left their reservation at Fort Hall, Idaho, were joined by Cayuse, Umatilla, and Paiute warriors in raids against white settlers trespassing on Indian land. Howard's troops forced the Native forces to surrender. In 1879 Howard led troops against a group of dissident Shoshones and Bannocks known as the Sheepeaters and forced them back to their reservation.

In 1881 Howard left the Department of the Columbia to return to West Point as superintendent. The next year he came back to the West to serve as commander of the Department of the Platte, an area that encompassed Iowa, Nebraska, Utah, and portions of Montana and Dakota. He was promoted to major general in 1886 and ordered to take command of the Department of the East. In 1887 he worked with General George Crook to secure the release of Apaches who were being held prisoner in Florida.

In his dealings with Native Americans, General Howard tried to protect peaceful Natives from the worst abuses of the white settlers. However, he also believed that lasting peace was only possible if Native Americans settled on their reservations and prepared to assimilate into American society.

See also *Apache Wars; Bannock War (1878); Bowlegs, Billy; Civil War; Cochise; First Seminole War; Freedmen; Joseph, Chief; Nez Perce War; Removal; Second Seminole War.*

Fred Lindsey

BIBLIOGRAPHY

- Carpenter, John A. *Sword and Olive Branch: Oliver Otis Howard*. New York: Fordham University Press, 1991.
- Howard, O. O. *My Life and Experiences among Our Hostile Indians*. New York: DeCapo Press, 1972.
- . *Nez Perce Joseph: An Account of His Ancestors, His Lands, His Confederates, His Enemies, His Murders, His War, His Pursuit and Capture*. Boston: Lee and Shepard, 1881.
- Warner, Ezra. *Generals in Blue: Lives of the Union Commanders*. Baton Rouge: Louisiana State University Press, 1964

Hump

A skilled warrior, Miniconjou Lakota chief Hump (c. 1838–1908; also known as Etokeah) was instrumental to Sioux success in several battles between the Lakotas and the U.S. Army and is credited with teaching Crazy Horse warfare tactics. Hump participated in Red Cloud's War for the Bozeman Trail (1865–1868), helping to develop decoy techniques to lure soldiers or emigrants into planned ambushes.

During the resulting Sioux attack on Fort Phil Kearny in Wyoming, often called the Fetterman Massacre, Hump led a dangerous decoy mission in which he lured eighty-one soldiers into a fatal ambush along Peno Creek, three miles from the fort. The battle helped bring about the Fort Laramie Treaty of 1868, in which both sides agreed to peace and the establishment of the Great Sioux reservation. Hump did not sign this treaty; therefore, the U.S. considered him a hostile Indian leader. Hump continued to resist U.S. settlement, employing similar decoy tactics in the 1876 Battle of the Little Bighorn, during which he hid a division of

Miniconjou in a ravine and used them to trap Colonel George Custer's soldiers. Only twenty-nine at the time of this fight, Hump was wounded early, preventing further participation during the battle.

In 1878 Hump's band of four hundred camped on the Cheyenne River. His participation in the Ghost Dance revitalization movement concerned the military, so Hump's former acquaintance, Captain Ezra P. Ewers of the U.S. Army, convinced the chief to move his band to Pine Ridge reservation. After the Wounded Knee Massacre in 1890, Hump traveled to Washington, D.C., with other chiefs to lobby for peace and improved reservation conditions.

See also *Bozeman Trail War (1865–1868)*; *Crazy Horse*; *Fort Laramie (1868)*, *Treaty of*; *Little Bighorn (1876)*, *Battle of*; *Red Cloud*; *Wounded Knee Massacre (1890)*.

Amanda Morris

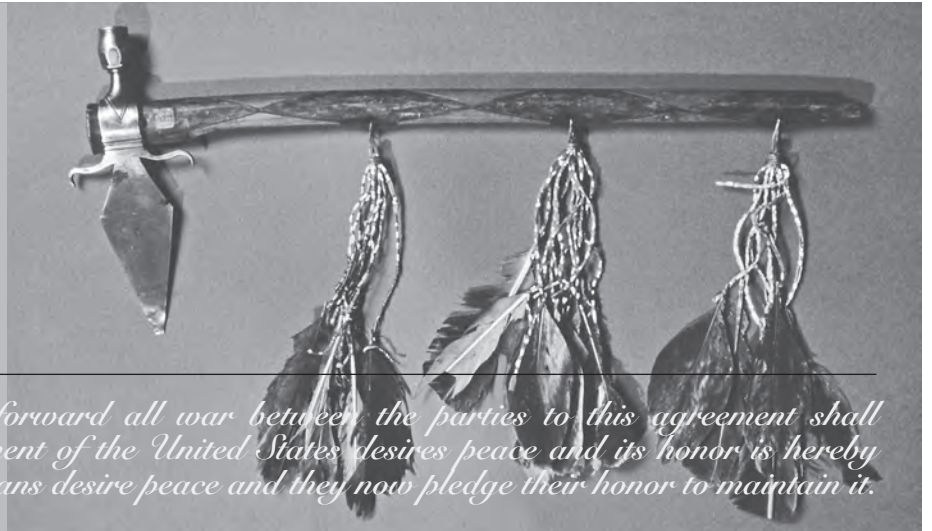
BIBLIOGRAPHY

- Andrist, Ralph K. *The Long Death: The Last Days of the Plains Indians*. New York: Macmillan Publishing Company, 1964.
- Brown, Dee. *Bury My Heart at Wounded Knee: An Indian History of the American West*. New York: Bantam, 1972.
- Fielder, Mildred. *Sioux Indian Leaders*. New York: Bonanza Books, 1975.
- Utley, Robert M. *Last Days of the Sioux Nation*. New Haven, Conn.: Yale University Press, 1963.

Hunting Rights

See *Fishing, Hunting, and Gathering Rights*.

I



Article 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they now pledge their honor to maintain it.

Ickes, Harold L.

Harold L. Ickes (1874–1952) served as secretary of the interior from 1933–1946, making him the longest-serving holder of the office. As secretary, Ickes was a strong supporter of John Collier’s “Indian New Deal” reforms.

After graduating from the University of Chicago Law School, Ickes became involved in reform politics on the state and municipal levels in Illinois. In the 1920s, in response to Secretary of the Interior Albert B. Fall’s strongly assimilationist policies, Ickes joined with other reformers in efforts to preserve the cultural autonomy, land rights, and economic assets of tribal peoples. He was a charter member of the American Indian Defense Association. When President Roosevelt was elected, Ickes lobbied to be appointed commissioner of the Office of Indian Affairs (OIA). When he was offered the position of secretary of the interior, he strongly advised that John Collier be named commissioner of the OIA. Ickes and Collier achieved several significant reforms in federal Indian policy, most notably the passage of the Indian Reorganization Act in 1934. Ickes also formally ended the program of allotment in severalty, which over the course of more than fifty years had deprived the Indians of over half of their original reservation lands.

After leaving the Department of the Interior, Ickes wrote many works advocating conservation and minority rights and strongly criticized the termination program, which sought to end all special federal responsibility for the Indians.

See also *American Indian Defense Association; Collier, John; Indian New Deal; Indian Reorganization Act; Roosevelt, Franklin D.; Termination and Restoration.*

Mark S. Joy

BIBLIOGRAPHY

- Ickes, Harold L. *The Autobiography of a Curmudgeon*. New York: Reynal and Hitchcock, 1943.
- Kelly, Lawrence C. “Choosing the New Deal Indian Commissioner: Ickes v. Collier.” *New Mexico Historical Review*, vol. 49 (October 1974): 269–288.
- Philp, Kenneth R. *John Collier’s Crusade for Indian Reform, 1920–1954*. Tucson: University of Arizona Press, 1977.

Imperium in Imperio

Imperium in imperio is a Latin term that means a sovereign state within a sovereign state, or an independent order within a state. The original usage of the phrase implied an internal political force that threatened the nation. The word “imperium,” understood as absolute or indivisible power, makes the phrase somewhat of a contradiction. Some scholars consider an individual state within the United States as an imperium in imperio, for it retains limited powers of sovereignty within the greater union.

Opponents of tribal sovereignty, such as lawyers who supported the removal of the eastern Indian tribes across the Mississippi, used the imperium in imperio argument to argue against the principle that the Indian tribes were sovereign nations. They contended that Article 4 of the Constitution, which prohibits the government from establishing a new state within an existing state, was included in the document to implement the imperium in imperio prohibition. Advocates of tribal sovereignty, on the other hand, pointed out that many, if not most, of the tribal nations predated the establishment of the states and the federal union.

See also *Government-to-Government Relations; Removal; Sovereignty.*

Miranda Brady

BIBLIOGRAPHY

- Ashley, Jeffrey S., and Secody J. Hubbard. *Negotiated Sovereignty: Working to Improve Tribal-State Relations*. Westport, Conn.: Praeger, 2004.
- McDonald, Forrest. *States Rights and the Union: Imperium in Imperio, 1776–1876*. Lawrence: University Press of Kansas, 2000.

Indian, Definition of

The term “American Indian” references a political status involving unique entitlements and laws. The question of who may claim this status is regulated by both tribal and federal law. In the first case, American Indian tribes use legal definitions to define and limit their citizenry. These definitions regulate political rights within the tribe, such as voting and office holding; they may also determine who shares in tribal revenues, benefits from tribal services, or lives on a reservation.

The fundamental right of tribes to define their membership any way they choose was determined in *Waldron v. United States* (1905) and clarified in *Santa Clara Pueblo v. Martinez* (1978). About two-thirds of all federally recognized tribes of the contiguous United States specify “blood quantum” (degree of tribal ancestry) in their citizenship criteria, with one-fourth blood degree being the most frequent minimum. The remaining one-third of tribes often require only that any citizen be a lineal descendant of another tribal citizen. Some tribes take other factors into account, including residency or community participation.

The federal government has specific purposes for which it must distinguish Indians from non-Indians. Federal definitions of American Indians determine eligibility for services—such as healthcare—resulting from treaties and agreements signed with the government. These services were often promised as compensation for land and resources that Indian nations historically surrendered, often against their will. Federal definitions also affect the exercise of economic rights, such as access to hunting and fishing areas. Finally, federal definitions determine who may benefit from important legal protections. Notable among these are the Indian Child Welfare Act of 1978, which helps ensure cultural continuity for children during foster care or adoption, and the Native American Graves Protection and Repatriation Act of 1990, which safeguards Indian peoples’ right to reclaim ancestral human remains from federally funded facilities. The Indian Arts and Crafts Act of 1990, aimed at protecting Native artists from unfair competition, forbids anyone except tribal citizens from marketing artwork as “Indian produced.”

Because the U.S. Constitution uses the word “Indian” without defining it, Congress has made its own definitions on an ad hoc basis, resulting in considerable variation in who is considered an Indian under different laws. A 1978 congressional survey discovered thirty-three separate definitions of “Indian” in different pieces of federal legislation, and more have been created since. Some federal laws accept tribal citizenship as a criterion of identification, but may also invoke other criteria. Other laws specify no definition of Indian persons, so the courts must determine to whom they apply. Given the wide variation in legal definitions, individuals who are considered Indians for tribal purposes may not be considered Indians for federal purposes; the converse is also true.

See also *Blood Quantum*; *Santa Clara Pueblo v. Martinez* (1978); *Tribal Citizenship*.

Eva Marie Garrouette

BIBLIOGRAPHY

- Fine-Dare, Kathleen S. *Grave Injustice: The American Indian Repatriation Movement and NAGPRA*. Lincoln: University of Nebraska Press, 2002.
- Garrouette, Eva Marie. *Real Indians: Identity and the Survival of Native America*. Berkeley: University of California Press, 2003.
- Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005.
- O'Brien, Sharon. “Tribes and Indians: With Whom Does the United States Maintain a Relationship?” *Notre Dame Law Review*, vol. 66 (1991): 1461–1502.
- Thornton, Russell. “Tribal Membership Requirements and the Demography of ‘Old’ and ‘New’ Native Americans.” *Population Research and Policy Review*, vol. 16, no. 1 (1997): 33–42.

Indian Adoption Project

The Indian Adoption Project (IAP) was part of an assimilationist program in the mid-twentieth century that placed thousands of Indian children in non-Indian homes. The program challenged the dominant policy of placing children with adoptive parents of the same race and implemented what IAP director Arnold Lyslo considered the more enlightened concept of transracial adoption. The IAP was fueled by studies showing that many Indian children living on reservations experienced great poverty and a lack of social services. Funded by the Bureau of Indian Affairs and administered by the Child Welfare League of America, a private organization, the project lasted from 1958 to 1967. Many adoption agencies administered the IAP, especially those who specialized in placing children of color. The pro-

gram put 395 Native children from western states in predominantly non-Native homes in states in the East and Midwest.

Indian activists criticized the IAP's policy, calling it another federal attack on Native communities and culture. IAP opponents organized a successful effort to pass the Indian Child Welfare Act in 1978 that made transracial adoptions difficult. In 2001 the Child Welfare League of America formally apologized for its role in the IAP. While a study of approximately 25 percent of families who adopted through the IAP suggested that children and families adjusted well, the project perpetuated the assimilationist ideals exemplified by the boarding schools that contributed to the break in transmission of Native cultural traditions.

See also *Indian Child Welfare Act (1978)*.

Ann Fulton

BIBLIOGRAPHY

- Carp, E. Wayne ed. *Adoption in America*. Ann Arbor: University of Michigan Press, 2002.
- Simon, Rita J. *Native American Transracial Adoptees Tell Their Stories*. Lanham, Md.: Lexington Publishers, 2008.

Indian Agents

Indian agents were appointed by the United States to represent the interests of the government to the Indian peoples under their jurisdiction. The agents were also responsible for looking after the security and interests of the Natives under their charge, for assisting Indians with their efforts to acculturate to the majority American society, for dispensing rations and funding to the tribes, and for providing the government with information about the status of the tribes.

The Colonial Origins of the Term

Although individuals such as missionaries and traders had sought to bridge the gap between Native and European cultures since contact, usage of the term "agent" in regard to an individual emissary to a specific people or group of peoples seems to have originated in the English colonies during the eighteenth century. It was disputes arising out of trading activities that necessitated the creation of the agent system. While trade carried the potential for great wealth and status for both the English and the Indians, it also generated many instances of fraud, hostility, theft, and violence on the part of both white traders and their Indian contacts. In addition to the potential of trade disputes to erupt into full-scale war-

fare, the dishonest practices of some traders also deprived colonial governments of much-needed revenue. In the early eighteenth century, many English colonies made an effort to prevent such occurrences by decreeing that only those holding an official license granted by the colony could trade with the local Indian groups. The individuals appointed to oversee these licensing systems came to be known as either Indian commissioners or agents.

By the middle of the century, it was clear that the way Indian relations were being conducted differently by each individual colony was inadequate. In 1755 the British government instituted the Indian policies that provided the basic framework for U.S. Indian policy after the American Revolution. In April of that year, the crown appointed Sir William Johnson, an Irish-born trader and landholder, as superintendent of Indian affairs for the Northern Department. Johnson, who had moved to New York's Mohawk Valley, worked many years to cultivate a relationship with the neighboring Six Nations of the Iroquois Confederacy and was particularly close to the Mohawk branch of the group. His appointment as superintendent came in large part as a reward for his service in securing an alliance between the Iroquois and the British during the early phases of the Seven Years' War (1754–1763). He held the position until his death in 1774 and by that point had gained so much influence among the Six Nations that most of them remained loyal to the British during the American Revolutionary War (1775–1783).

One year after Johnson's appointment, the British government appointed Edmond Atkin as superintendent of Indian affairs for the Southern Department. In 1755 Atkin wrote an influential report on the condition of colonial Indian relations ("Indians of the Southern Colonial Frontier") that suggested how the British government might pull the southern tribes away from their relations with Spain and France. He urged the government to subsidize the deer-skin trade and centralize colonial trade regulations to establish good diplomatic relations. Most of the Indian tribes in the East, however, either allied with France or remained neutral. Atkin resigned in 1761 and was replaced by John Stuart. Stuart, a South Carolina merchant of Scottish origin, was largely responsible for securing Cherokee loyalty to the British during the American Revolution.

The British tasked the superintendents with regulating trade, negotiating disputes, distributing gifts to maintain loyalty, and enlisting the aid of Native warriors during times of war. While this worked better than the previous decentral-

ized system of relations, the superintendents often found themselves in disputes over jurisdiction with both colonial governments and British military commanders. Despite these difficulties, the basic structure, vocabulary, and even some of the plans developed under the British superintendent system were subsequently adopted by the United States.

Revolutionary Era

The use of Indian agents in the early development of the United States began almost exactly one year before the colonies declared their independence. Acutely aware of the need for a coherent Indian policy if they were to achieve success in their war with Great Britain, the Committee on Indian Affairs of the Continental Congress issued its first report in July of 1775. The report divided responsibility for maintaining friendly relations with Indians among three departments: the Southern Department, which was responsible for all Native groups from the Cherokees southward; the Northern Department, which oversaw the Six Nations of the Iroquois and the groups to their north; and the Middle Department, which looked after all the Native peoples located between the other two departments. Several commissioners presided over each department. The commissioners in turn appointed as many Indian agents as they saw fit.

In reality, the job of these agents had little to do with any kind of comprehensive Indian policy on the part of the Continental Congress. Instead, their primary task was to monitor the activities of British agents and prevent them from convincing Indians to fight against the Americans. More often than not, they failed to do this, and the overwhelming majority of Native peoples who fought in the Revolutionary War did so as allies of the British. A comprehensive system in which Indian agents played a large role in day-to-day relations with Native people did not develop until after the ratification of the U.S. Constitution.

Early Republic

George Washington included the implementation of a comprehensive Indian policy as part of his agenda during his first term as president. In a 1792 message to Congress, Washington cited the employment of a professional group of Indian agents as a vital piece of any successful Indian policy. He charged these agents with two tasks he considered critical to maintaining a lasting peace among Indians and Americans in the western reaches of the young nation. The first was to prosecute crimes committed by whites against

Indians. Washington believed that the majority of violence committed by Indians occurred as reprisals against theft, fraud, abuse, and murders perpetrated against them. The second pillar of his Indian policy was the creation of firm economic ties between the United States and Indians. Indian agents were to play a very large role in this by setting up and maintaining trading houses where Indians could trade with whites. At these trading houses, the agents would maintain vigilance against unscrupulous trade activities designed to defraud the Indians. Despite vigorous opposition from those whose finances Washington's program might adversely affect, Congress eventually put nearly all of the elements of the plan into effect (if only on a temporary basis) in the Trade and Intercourse Act of 1793. When the program came up for renewal in 1802, Thomas Jefferson pushed for an end to its temporary status and Congress permanently renewed it. Indian agents were now a permanent fixture in U.S. Indian policy, and while Washington's system was abandoned during the era of Indian removal in the 1830s, Indian agents remained a fixture in U.S.-Indian relations. By the time of removal, agents were also heavily involved in instructing Indians in the government's efforts to "civilize" them. For example, Benjamin Hawkins, an agent for the Creeks, established a model farm to teach his Native charges how to practice Anglo-American style agriculture.

By 1818 there were fifteen agents and ten subagents in the United States. That year, Congress established a formal process for agent selection: they were to be appointed by the president and confirmed by the Senate. When the factory system was eliminated in 1822, the trade and intercourse act passed that year assigned agents the responsibilities of issuing licenses to traders, eliminating the trade in whiskey, and making reports on their activities to the War Department.

Removal Era to the Turn of the Century

Even before the adoption of the Indian Removal Act of 1830, Indian agents found their authority diminished by several conflicting programs, societal attitudes, and overlapping official jurisdictions. In 1819 Congress created a program that encouraged the creation of schools to "civilize" Native Americans that resided near the edges of white settlements. While the program itself did not adversely affect Indian agents, its implementation served to fragment their authority. President James Monroe decided to leave the administration of the schools to various charitable organizations rather than the federal government. This placed the school system outside the jurisdiction of the agents who had been tasked

with oversight of all government activities in regard to Indians. This both confused Indians as to who was really in charge and weakened the agents in their eyes. In addition to conflicts with the charitable and religious organizations that ran the schools, the agents also found their authority increasingly challenged by state governments, military personnel, and the ever-increasing stream of settlers in the West. Also, though they had nominally reported to the secretary of war since the Washington administration, Indian agents had never been legally prescribed to any specific office of the government's growing bureaucracy. This placed them at a distinct disadvantage when challenged by members of Congress, military officers, or state officials.

Finally, with the advent of Indian removal, Congress officially created the position of the commissioner of Indian affairs in 1832 and placed it under the jurisdiction of the secretary of war. At that time, the commissioner oversaw eighteen agents and twenty-seven subagents. Two years later, Congress went even further. As part of a complete reorganization of Indian affairs, new legislation detailed the specific duties of Indian agents, regulated their number and jurisdictions, and streamlined the lines of authority among them. The need for Indian agents to effectively administer the government's removal program was the motivation for much of this reorganization. Convincing Native people to relocate from the East to reservations west of the Mississippi River became one of the primary tasks of Indian agents during the removal period.

In addition to their new mandate as managers of Indian removal, the agents also experienced other significant changes during the nineteenth century. In 1849 Congress removed Indian affairs from the War Department and placed it under the jurisdiction of the newly established Department of the Interior. This move reflected another major change in the direction of Indian policy in the United States. As Americans poured into the lands west of the Mississippi River in the second half of the century, the focus of Indian policy correspondingly shifted to that portion of the country. In 1851 Congress reorganized the territorial distribution of agents by moving many of their offices to the West, as most of the government's attention was now focused on subduing and moving to reservations the Plains tribes and those in the Southwest and the Pacific Northwest.

The Sand Creek massacre, the United States–Dakota War of 1862, and reports of corruption in the Office of Indian Affairs (OIA) brought public scrutiny to Indian affairs. After the Civil War (1861–1865), a group of Christian philan-

thropicists and activists, often referred to as the "Friends of the Indian," called for reform of Indian policy and the OIA. As a result, postwar Indian relations fell increasingly into the hands of Christian missionaries and groups, and Indian agents found themselves tasked with converting Native Americans to Christianity. Eventually, these missionary groups gained almost complete authority over Indian affairs with the advent of President Ulysses S. Grant's Peace Policy.

When he first became president, Grant had planned to place army officers in the agency positions. In the spring of 1869, however, a Quaker delegation convinced Grant to allow their members to serve as agents at some of the reservations in Nebraska, Kansas, and in the Indian Territory. Soon after, Grant turned over the administration of all Indian agencies to a variety of Christian religious denominations. His decision had been swayed by the fact that troops under Colonel E. M. Baker had massacred a number of Piegan Indians in January of 1870, which brought the army's role in Indian policy into public question, and by arguments from the Board of Indian Commissioners—a group dominated by religious reformers—that having some agencies run by Christian missionaries and others by professional warriors was philosophically inconsistent. Fearing that removing the military agents would bring back those who earned the position simply because of their political connections, Grant gave the churches almost complete control over the selection, dismissal, and evaluation of Indian agents.

In the end, denominational control of the agencies failed to produce the results Grant and the government desired. Many Indian agents, regardless of their backgrounds, showed little concern for anything but their own advancement and managed the affairs of their agencies very poorly. The quasi-partnership between the federal government and the religious community devolved into battles over authority and bureaucratic turf. Additionally, the various religious denominations came to view their agency appointments as a right to convert the Indians to their particular brand of Christianity to the exclusion of other denominations. Finally, the outbreak of wars on the Plains in the 1870s brought Indian affairs under the increasing jurisdiction of the U.S. military, and Indian agents now found themselves under the command of military commanders rather than religious organizations. By the end of the wars in the 1890s, with appointments from the military and the churches both discredited, the position of Indian agent had once again become one of the spoils of victory distributed as payment to political supporters of the current administration.

The End of the Indian Agent System

After the U.S. cavalry massacred a large group of Sioux men, women, and children at Wounded Knee in 1890, many reformers began to clamor for the inclusion of Indian agents in the civil service system to prevent the abuses of self-interested politicians, conflicts among overzealous religious leaders, and the use of unnecessary violence against Native communities. Finally, during the presidency of Theodore Roosevelt, a champion of the civil service approach, Indian agents were replaced with civil servants known as superintendents.

See also *Assimilation and Acculturation; American Revolutionary War (1775–1783); Atkin, Edmond; Civilization Program; Commissioner of Indian Affairs; Factory System; Grant, Ulysses S.; Great Britain, Indian Policy of; Hawkins, Benjamin; Indian Policy of the Continental Congress; Interior, U.S. Department of the; Johnson, William; Removal; Roosevelt, Theodore; Stuart, John; Trade and Intercourse Acts; United States–Dakota War of 1862; Washington, George; Wounded Knee Massacre (1890).*

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BIBLIOGRAPHY

- Alden, John R. *John Stuart and the Southern Colonial Frontier: A Study of Indian Relations, War, Trade, and Land Problems in the Southern Wilderness, 1754–1775*. Ann Arbor: University of Michigan Press, 1944.
- Flexner, James. *Lord of the Mohawks: A Biography of Sir William Johnson*. Boston: Little, Brown, 1979.
- Gallaher, Ruth A. “The Indian Agent in the United States before 1850?” *Iowa Journal of History and Politics*, vol. 14 (January 1916): 3–55.
- Hill, Edward E. *The Office of Indian Affairs, 1824–1880: Historical Sketches*. New York: Clearwater Publishing Company, 1974.
- Peake, Ora Brooks. *A History of the United States Indian Factory System, 1795–1822*. Denver, Colo.: Sage Books, 1954.
- Pound, Merritt B. *Benjamin Hawkins: Indian Agent*. Athens: University of Georgia Press, 1951.
- Prucha, Francis Paul. *American Indian Policy in the Formative Years: The Indian Trade and Intercourse Acts, 1790–1834*. Cambridge, Mass.: Harvard University Press, 1962.
- . *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Satz, Ronald N. *American Indian Policy in the Jacksonian Era*. Lincoln: University of Nebraska Press, 1975.
- Stuart, Paul. *The Indian Office: Growth and Development of an American Institution, 1865–1900*. Ann Arbor, Mich.: UMI Research Press, 1979.
- Trennert, Robert A., Jr. *Alternative to Extinction: Federal Indian Policy and the Beginnings of the Reservation System, 1846–1851*. Philadelphia, Pa.: Temple University Press, 1975.
- Viola, Herman J. *Thomas L. McKenney: Architect of America's Early Indian Policy, 1816–1830*. Chicago, Ill.: Swallow Press, 1974.

Indian Appropriations Act (1871)

With the Indian Appropriations Act of 1871 Congress ended its practice of using diplomatic treaties to deal with Indian tribes and dissolved federal recognition of the tribes as sovereign political bodies with whom the United States would directly negotiate. The act specifically stated, “Provided, That hereafter no Indian nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty.”

Under the new legislation, executive order or congressional legislation was used to institute policy with a specific tribe. The measure did not invalidate established treaties, but it did suggest that the U.S. government held the power to manage Indian affairs without tribal consent. The provision also implied that the commissioner of Indian affairs would in the future wield absolute economic authority over the tribes through supply disbursement and approval of all contractual agreements. For lawmakers, the measure sought to avoid past mistakes in negotiations that often resulted from the assumption that a tribal chief spoke for an entire Indian nation. The provision also provided the House of Representatives, whose authority existed only in the appropriation of funding for the tribes, greater responsibility over Indian affairs to counter the Senate's exclusive treaty-making power. Many Native Americans, however, saw the legislation as another step toward the dismantling of their culture and the planned assimilation of their people into the majority society.

See also *Assimilation and Acculturation; Treaties: Historical Overview; Treaty Abrogation.*

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BIBLIOGRAPHY

- Indian Appropriations Act of March 3, 1871*, 41st Cong., 3d sess. (March 3, 1871).
- Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005.
- Prucha, Francis P. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Wunder, John R. *Retained By the People: A History of American Indians and the Bill of Rights*. Oxford: University of Oxford Press, 1994.

Indian Art Law

In the early twentieth century, officials in the Office of Indian Affairs began to appreciate the aesthetic and economic value

of Native American arts and crafts and saw Indian artistic work as a way to help Native people become more self-sufficient. By the 1920s, proponents of the idea of marketing Native art realized that the government needed to take action to protect Native artists and the Native art market from unscrupulous individuals and groups passing off items produced by non-Indians as Indian artwork. The U.S. government tried several measures to stem the fraudulent trade in the twentieth century, but it was not until 1990 that Congress would enact comprehensive legislation to try to guarantee and protect the authenticity of Indian-made arts and crafts.

Public interest in protecting Native rights crystallized in 1928, when many Americans became concerned with the general plight of Native Americans. That year, the *Meriam Report*, which itemized the poor conditions and lack of economic opportunity on reservations, sparked an outcry for reform. One remedy reformers suggested for improving conditions was to revitalize Native craft industries. Lewis Meriam, the chair of the Meriam Commission, tasked University of Oklahoma history chair Everett Dale with assessing the market for Indian-made goods. According to Dale, it looked promising, if the government could guarantee the genuineness of the product.

It was not the first time that official labeling was considered for Indian products. In 1910, Charles Davis, an Office of Indian Affairs farming supervisor, produced an official linen tag for Navajo-made blankets identifying the makers as reservation Navajos and the material as Navajo wool. In 1928, Secretary of the Interior Roy West commissioned James Frazer, designer of the Indian-head nickel, to produce a trademark of Indian-product authenticity. Frazer produced an Indian war bonnet design, but it never made its way onto Indian products; the U.S. Patent and Trademark Office (PTO) rejected the petition for it on the ground that the Department of the Interior was not a qualified applicant under trademark rules.

Depression-era relief packages included provisions to bolster the Indian-art industry by cultivating consumer demand through improved product quality and authenticity, with authenticity reflected in how a product was made, rather than who made it. After public hearings about product standards and measures, the Commission on Indian Arts and Crafts was formed in 1934 and identified three market dangers. Two concerned losses in traditional Native artistic values, and a third acknowledged the ominous advance of mechanized domestic curio factories capitalizing on the lucrative tourist trade. Although these factories employed

some Indian labor, they also hired Anglo and Hispanic workers. Again, a distinguishing mark guaranteeing genuineness and quality was recommended.

Market protectionism expanded during John Collier's tenure as commissioner of Indian Affairs, 1933 to 1945. One of his accomplishments was the establishment of the Indian Arts and Crafts Board (IACB) in August 1935. Beyond setting stipulations for board membership, duties, and a funding request, the act creating the board—the Indian Arts and Crafts Act of 1935—provided criminal penalties for Indian-product misrepresentation, counterfeiting, and trademark abuses. In the fifty years that followed, however, not a single case was prosecuted under the act.

Consumer demand for Indian arts and crafts hit an all-time high during the 1970s and 1980s as a result of successful promotion, Native art shows, movies, and a growing public interest in the history of American Indians. Where demand for Indian art increased, however, fraudulent competition followed. By 1985, a flood of fake products was pouring into the United States. Though counterfeit Indian jewelry was the primary source of concern, other imitated goods included Plains beadwork, Navajo rugs, Pueblo pottery, Southwest Indian baskets, and Hopi kachina dolls. These imitations not only led to Native revenue losses, but also threatened to erode consumer confidence.

Congress passed the Indian Arts and Crafts Act (IACA) of 1990, creating a market-entry barrier and compelling Indian artists to qualify themselves by providing tribal identity cards. In part, the law was designed to eliminate consumer fraud and inhibit foreign imitators by constructing brand identification through “Indianness.” The IACA of 1990 sought, like the 1935 act, to protect Indian-made products by making it a felony to “offer or display for sale or sell any good in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian Tribe or Indian-arts-and-crafts organization resident within the United States” (*Code of Federal Registration*, title 25, sec. 309.1). Individual violators faced fines of up to \$250,000 and five years in prison. Wholesale and retail offenders could suffer fines up to \$1,000,000. If convicted a second time, the penalties increased. In 2000, an amendment provided victims of fraud with the right to bring civil court suits against violators of the act.

California attorney William J. Hapiuk Jr. (2001) notes that the first casualty of the IACA was not the type of egregious offshore, Indian art counterfeiter that the law aimed to punish, but the Museum of the Five Civilized Tribes (in

Muskogee, Oklahoma), which temporarily closed its doors for fear of becoming a test case of the law. The museum staff was certain of their arts' Indian origins, but feared that many artists might not meet the IACA's definition of "Indian." The museum reopened after federal reassurance that the law targeted commercial offers for sale, not displays or possessions.

After passage of the IACA, critics complained that its enforcement was primarily left to private and semi-private gatekeepers—that is, museums, fairs, trade shows, retail shops, and art galleries. These ad hoc police became the arbiters of what art was legal, and, as guardians of what was legitimate Indian art, basically subjected some Indian artisans to "identity crises," as the artisans were forced to seek genealogical and legal proof of their rights to proclaim themselves Indians.

Proponents of the law noted that the act was never intended to intimidate museums or launch witch hunts based on Indian identity. The regulation came on the heels of a 1985 Department of Commerce report estimating annual sales of Indian jewelry and crafts to be between \$400 million and \$800 million. Yet the same report stated that 20 percent of those sales involved fake products passed off as Indian-made items. In addition, many such counterfeit products originated in foreign countries—primarily Mexico, Taiwan, and the Philippines—and were selling for half as much as genuine items. Although cheap, offshore products in general plagued many American manufacturers, imitating American Indian goods seemed to touch a nerve signaling that something beyond profits was at risk. Offshore fakes were assaulting a national symbol.

Supporters of the act argued that the IACA's architects had been justified in adopting strict definitions of who qualifies as an Indian to halt product forgery. In doing so, the act had to identify the party or parties affected by such fraud, and if the legislation defined "Indian" too broadly or too vaguely, it would open the door to counterfeiters. The delineation—established as members of federally and state-recognized tribes—encompassed most of the artists the act intended to protect, but the implications of IACA's definition of "Indian" threatened to spill over into how the government identified American Indians for other purposes. Some warned that just as federal legislation gradually gave birth to the idea of Indian blood quantum, the manner in which the IACA defined "Indian" might affect how tribes and the rest of the federal bureaucracy applied the term.

Federally or state-recognized tribes have the prerogative to say who is, or who is not, a member, an essential aspect of

tribal sovereignty rights determined by the ruling in *Santa Clara Pueblo v. Martinez* (1978). Internal tribal feuding sometimes leads to contentious manipulations of tribal enrollment rules. To include people displaced by tribal rules of membership, the act allows tribes to certify artisans, thus recognizing tribal descent without awarding full tribal enrollment benefits. To qualify, artists must receive written documentation from tribal governing bodies indicating that they are certified artisans. The "Indian-artisans" clause has not, however, served its purpose well. Whether intimidated, uninformed, or resentful over the certification process, many artists have not approached their tribes to secure the status. For those who have applied, few petitions have survived tribal politics, misunderstandings of the certification process, or tribal administrative inertia.

The IACA provides guidelines for enforcement, but the ways and means by which violators can be prosecuted are a weakness of the legislation. IACA oversight fell to the IACB, an agency woefully understaffed and underfunded since its inception in 1935. Under the 1990 act, violations must be reported to the IACB, which, lacking its own investigative resources, then turns the cases over to the Federal Bureau of Investigation (FBI). If the FBI deems a claim credible, the case is then prosecuted by the Justice Department. By 2000, only two criminal indictments had been levied. The IACA also allows for civil suits by an enrolled Indian, an Indian tribe, or an Indian arts and crafts organization, but they must be brought before the U.S. attorney general upon the request of the secretary of the interior. At this writing, the Indian Arts and Crafts Amendments Act of 2007 had been introduced into the Senate with the goal of allowing federal agencies, in addition to the FBI, to undertake IACA-related investigations and enforcement. Some observers contend, however, that government investigators are already overburdened by other national priorities and that the Indian Arts and Crafts Board needs its own policing force and a larger staff to implement the IACA.

In the Indian Arts and Crafts Enforcement Act of 2000, Congress had adopted amendments to the IACA to clarify the definition of Indian products and who qualified as an Indian. Of equal importance, the amendment permits individual Indians, Indian tribes, and Indian-operated craft organizations to bring directly civil suits against violators. It also increases civil penalties by offering treble damages as well as court-awarded punitive damages and attorney fees.

The Ho-Chunk Nation (incorporated in Wisconsin) filed more than a dozen civil cases against retailers and non-

Indian craft producers through their art organization, Native American Arts. Courts, wrestling with how to apply the IACA, have sought precedents in other laws, such as the Lanham Trademark Act of 1946. In one case, Native American Arts sued the Waldron Corporation for manufacturing and selling jewelry identified as being Indian but that was actually designed by a non-Indian. Product labels identified products as "Navajo," "Crow," and "Zuni," and accompanying product tags attached the merchandise to tribal lore without authenticity disclaimers. Two important precedents emerged from *Native American Arts, Inc. v. The Waldron Corporation* (7th Cir. 2005). First, the court held that the 1990 IACA was constitutional and second, it declared that the act's regulations made the word "Indian" a trademark under the commercial circumstances set out in the law.

Some legal analysts argue that the most promising instrument for discouraging imitators is the Indian Arts and Crafts Board's ability to trademark Indian products. The 1935 act enabled it to register a "genuineness and quality" trademark with the PTO, without charges to individual Indians or tribes transfer use rights. This action is outside the Lanham Trademark Act, which restricts trademark use to an individual or a manufacturer. The board can, however, based on the Lanham act, issue a certification mark, which is a "special creature" not used by the owner but a guarantee that certain standards are met. The certification mark can indicate origin, describe material and mode of production, and identify laborers as members of a union or organization. Public comments solicited during the 2000 amendment process garnered a recommendation (which was added to *Code of Federal Regulations*, title 25, sec. 309.8) that artists authenticate their own work with labels, hangtags, or provenance cards bearing their name, tribe, and enrollment number as a form of self-certification within reach of the law.

Subjecting the IACA to trademark tests has had risks for Native artists. In 1997, the Trademark Trial and Appeal Board of the PTO reviewed a petition to register the trademark Indian Nation Leather Co., a distributor of equestrian equipment. On first review, examining attorneys disallowed the petition on two breaches: under the Lanham Trademark Act for "falsely suggesting" a connection with Native Americans and under IACA regulation for "falsely suggesting" the goods were Indian produced. A review court reversed the decision, finding that it was not established in the review that "Indian Nation" is uniquely descriptive of Native Americans. The court noted that "Indian Nation"

appears in the names of a range of other enterprises, including aviation companies and power and gas company names, and an Oklahoma turnpike. Although some civil and appeals courts have ruled that "Indian" is a trademark (in certain circumstances), the PTO has not necessarily agreed on its exclusiveness.

The most significant deterrent the IACA seems to have rests in legal stature alone. Respectable art dealers, galleries, and museums and undocumented Indian artists might weigh the possible punitive consequences and then choose to accept the act's definitions and comply with the law. On the other hand, the unscrupulous dealers that the law is meant to deter may weigh the risks of prosecution and then ignore the law. If the goal of lawmakers was to decrease offshore knock-offs, the government could apply existing laws, such as federal customs regulations requiring that imported products be labeled with their country of origin in conspicuous places and that the labeling be legible, indelible, and permanent ("Country of Origin Marking," *Code of Federal Regulations*, title 19, sec. 134.43c-d). The Federal Trade Commission (FTC) also protects consumers from fraud, deception, and unfair business practices, and consumers themselves can report violations directly to the FTC for investigation rather than take the circuitous route through the Indian Arts and Crafts Board. Prior to the IACB and the 1935 act, the government was already prosecuting companies for trafficking jewelry falsely labeled "Indian," "Navajo," and "Product of American Indians." The FTC had also issued cease and desist orders against border-town sweatshops selling tourists machine-made jewelry fraudulently passed off as Indian. Customs agents and lawmakers of the 1930s were not challenged, however, with the same national concerns as agents operating in this century. For customs inspectors, Indian art forgeries are of far less pressing concern than instruments of terrorism, drugs, or tainted foods.

See also *Art; Collier, John; Indian Arts and Crafts Act (1990); Santa Clara Pueblo v. Martinez (1978).*

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BIBLIOGRAPHY

- Feraca, Stephen E. *Why Don't They Give Them Guns? The Great American Indian Myth*. Lanham, Md.: University Press of America, 1990.
- Hapiuk, William J., Jr. "Of Kitsch and Kachinas: A Critical Analysis of the Indian Arts and Crafts Act of 1990." *Stanford Law Review* 53 (2001): 1009-75.
- Hotzman, Terry E. "Tips from the Trademark Examining Operation." *Trademark Report* 81 (1991).

- Lynch, Sandra L. *Chasing Midas's Moccasins: The Business of American Indian Art*. Ann Arbor, Mich.: UMI-ProQuest Microfilms, 2002.
- Meriam, Lewis, et al. *The Problem of Indian Administration*. 1928. Reprint, New York: Johnson, 1971.
- Schrader, Robert F. *The Indian Arts and Crafts Board: An Aspect of New Deal Indian Policy*. Albuquerque: University of New Mexico Press, 1983.
- Sheffield, Gail K. *The Arbitrary Indian: The Indian Arts and Crafts Act of 1990*. Norman: University of Oklahoma Press, 1997.
- U.S. Department of Commerce. International Trade Administration. *Study of Problems and Possible Remedies Concerning Imported Native American-style Jewelry and Handicrafts*. H.R. Rep. no. 99-162, 1985, 18-19.
- Woltz, Jennie D. *The Economics of Cultural Misrepresentation: How Should the Indian Arts and Crafts Act of 1990 Be Marketed?* Galleyproof_120106.doc (2007). <http://law.Fordham.edu/publications/articles/200flspub7429.pdf>.

Indian Arts and Crafts Act (1990)

During the early twentieth century, some vendors sold arts and craftworks including jewelry, pottery, baskets, carved stones, woven rags, kachina dolls, and clothing to consumers under the false pretext that these items were produced by Indian tribal members or certified Indian artisans. In an effort to promote American Indians' economic development and expand their marketing opportunities, the Indian Arts and Crafts Board adopted an act in 1935 that established criminal penalties for individuals who sold these misrepresented goods. However, the law failed to deter individuals from selling imitation Indian arts and crafts. In response to the growing sales of misrepresented Indian items, the board passed the Indian Arts and Crafts Act of 1990, which made it illegal for individuals, organizations, or businesses to sell and market imitation Indian arts and crafts within the United States.

Under the new law, vendors and businesses within the United States receive civil and criminal penalties if they display, offer, or sell an art or craftwork in a manner that falsely suggests an Indian, Indian arts and crafts organization, or Indian artisan created the item. The act covers all Indian traditional and contemporary arts and craftworks produced after 1935. For first time violators, an individual can face a fine of up to \$250,000 or five years in prison. If a business violates the act, the company can receive a fine of up to \$1,000,000. The act has proven successful, as the amount of imitation Indian arts and craftworks decreased during the late twentieth century.

See also *Indian New Deal; Trademarks and Trade Names*.

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BIBLIOGRAPHY

- Indian Arts and Crafts Act of 1990*, Public Law 101-655, 101st Cong., 2d sess. (November 29, 1990).
- Schrader, Robert Fay. *The Indian Arts and Crafts Board: An Aspect of New Deal Indian Policy*. Albuquerque: University of New Mexico Press, 1983.

Indian Business Development Fund

The Indian Business Development Fund, also known as the Indian Business Development Program, was created in 1971 by the Bureau of Indian Affairs (BIA) to address the lack of entrepreneurship in Native communities and tasked with encouraging new businesses, expanding current businesses, and creating jobs. The fund, with an initial appropriation of just over \$3 million dollars, offered grants to individuals, tribes, and associations that might have had difficulty obtaining loans due to lack of capital, and provided up to 40 percent of the costs of business development. In its first year of operation, the fund helped create 241 businesses and aided in the expansion of another 143.

The program was dropped after its second year, following questions about whether the bureau had the authority to operate it. The fund was reestablished in 1974 under the Indian Finance Act, and between 1972 and 1977, Native business ownership grew by 300 percent. The failure rate of these enterprises was high, however, and the ones that did survive were often in urban areas or near transportation centers. As a result, many in Congress criticized the program, while Native leaders suggested that officials did not provide sufficient technical support.

Despite these complaints, the program continues to be an important source of economic development for Native American enterprises. Congress appropriated over \$10 million for the fund between 1986 and 2004. As of 2008, grants of up to \$100,000 were available to individuals and up to \$250,000 for tribes.

See also *Indian Financing Act; Self-Determination; U.S. Indian Policy, Congress and the Executive, 1961–* .

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BIBLIOGRAPHY

- Burt, Larry. "Western Tribes and Balance Sheets: Business Development Programs in the 1960s and 1970s." *The Western Historical Quarterly*, vol. 23 (November 1992): 475–495.
- Sorkin, Alan L. "Business and Industrial Development on American Indian Reservations." *The Annals of Regional Science*, vol. 7, no. 2 (December 1973): 115–129.
- . "The Economic and Social Status of the American Indian, 1940–1970." *The Journal of Negro Education*, vol. 45 (Autumn 1976): 432–447.

Indian Child Welfare Act (1978)

With the Indian Child Welfare Act of 1978 Congress attempted to address the serious problems that arose from state agency mistakes, cultural insensitivity, and overzealousness in the adoptions and foster care placements of Indian children. Studies had convinced Congress that states were too aggressive in removing Indian children from their homes and cultures and turning them over to non-Indian adoptive and foster parents. Congress recognized that tribes have a particular interest in their children because "there is no resource that is more vital to the continued existence and integrity of Indian tribes" and that the federal government had a responsibility to protect and preserve these relationships.

Consequently, Congress granted tribal courts exclusive jurisdiction over adoption and placement decisions for Indian children living on reservations. It also granted tribes concurrent jurisdiction with state courts for Indian children not living on reservations. Even when a state court exercises its concurrent jurisdiction, however, tribes and Indian parents have several safeguards available to them. In essence, Congress recognized that the best decision makers to determine the futures of Indian children are tribes and tribal courts.

In addition, Congress established heightened requirements of proof before Indian children can be placed in foster care or before parental rights can be terminated. It also said that states must give full faith and credit to tribal court child custody proceedings, placement standards for Indian children must meet the prevailing social and cultural mores of the Indian community, and indigent Indian parents have the right to court-appointed attorneys.

See also *Indian Adoption Project*.

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BIBLIOGRAPHY

- Indian Child Welfare Act of 1978*, Public Law 95–608, 95th Cong., 2d sess. (November 8, 1978).

- Jones, B. J. *The Indian Child Welfare Act Handbook: A Legal Guide to the Custody and Adoption of Native American Children*. Chicago, Ill.: American Bar Association, 1995.
- Mississippi Band of Choctaw Indians v. Holyfield*, 490 U.S. 30 (1989).
- Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005.

Indian Citizenship Act (1924)

On June 2, 1924, President Calvin Coolidge signed into law the Indian Citizenship Act. Sponsored by Representative Homer P. Snyder of New York, the act granted full citizenship to all noncitizen Native Americans born in the United States. Prior to its enactment, two-thirds of all Indians had already gained citizenship through other means, such as military service, marriage, land allotments, or special dispensation through an act of Congress. Military service, particularly during World War I (1914–1918), had provided a major route to citizenship. Not faced with being placed into segregated units like African Americans, Native Americans had demonstrated an ability to integrate into the general military society. As such, policy makers were eager to grant citizenship to Indians both as a reward for their service and as a means to assimilate them into the American mainstream.

What made this legislation different from previous measures was that it conferred citizenship without mandating any preconditions for attaining it. In theory, this enfranchisement extended to Native Americans all constitutional rights under the Fourteenth Amendment. However, it did not guarantee equality, as it failed to eliminate long-standing prejudices and economic disparity. These shortcomings were more acutely evident in terms of voting rights guaranteed by the Fifteenth Amendment. At the time the act was passed, the Constitution left it to individual states to decide who could vote, and through various loopholes Indians routinely were denied the right. They were treated still as federal wards rather than competent citizens with a vested interest in the electoral process.

Although it granted U.S. citizenship and all that entailed, the act strictly stated that by no means did its passage infringe upon the rights of Indians in tribal or property matters. The language of the act clearly expressed the desire to preserve the status of Indians under federal law, which many Native Americans interpreted to mean they held a unique place under the law as dual citizens of both the United States and their respective Indian nation. Policy makers assumed

that Indians would fully integrate into American society and eventually lose this duality—an assumption that thus far has proven to be flawed.

The question of Indian citizenship raised considerable debate and drew mixed reactions over its impact. Some U.S. reformers believed that neither American nor Indian society would benefit from the act. However, supporters of the measure saw it as an affirmation of their commitment to Indians and their rights, both as members of their respective tribal nation and of the United States. The same was true of Indian attitudes. Some felt it was important to become active American citizens, while others openly resisted the conferral of citizenship as another assault on their culture through assimilation and a wholesale violation of their tribal sovereignty. Nonetheless, whether they wished it or not, all Indians were automatically made citizens of the United States under the new law.

See also *Citizenship: United States and State.*

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BIBLIOGRAPHY

- Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, NJ: LexisNexis, 2005.
- Deloria, Vine, Jr., ed. *American Indian Policy in the Twentieth Century*. Norman: University of Oklahoma Press, 1992.
- Wunder, John R. *Retained By the People: A History of American Indians and the Bill of Rights*. Oxford: Oxford University Press, 1994.

Indian Civil Rights Act (1968)

The U.S. Constitution, and particularly the Bill of Rights, contains a number of provisions designed to prevent the federal and state governments from interfering with individual rights. Beginning with *Talton v. Mayes* in 1986, the Supreme Court has consistently ruled that the Constitution does not apply to tribal governments, but in 1924 Congress declared that all Indians born in the United States are U.S. citizens. By the early 1960s, concerns had arisen about whether tribal governments were impeding the rights guaranteed to U.S. citizens by the Constitution. It is unclear whether these concerns were founded, but the result of the hearings was the passage of the Indian Civil Rights Act of 1968 (ICRA).

The ICRA requires that tribal governments respect, among other things, freedom of speech and of the press, the free exercise of religion, and the rights to be free from unreasonable searches and seizures, to not be subjected to double jeopardy, to due process, and to equal protection. The full list

of rights is enumerated in 25 U.S.C. 1302. The individual rights guaranteed by the ICRA are consistent with, but not identical to, those in the Constitution. Even when the same right is found in both documents, it does not have to be interpreted identically.

Several provisions in the Constitution were deliberately omitted from the ICRA, including the guarantee of a republican form of government (allowing each tribe to structure a government suited to its tradition), the establishment clause (several tribes, most notably the Hopis and many Pueblos, operate as theocracies), and the right to a jury trial in civil cases (which applies only to federal cases; it does not bind states).

The ICRA imposed several extra restrictions on tribes. As originally enacted, the act limited tribes from sentencing defendants to more than six months imprisonment and/or more than a \$500 fine. Congress increased those limitations in 1986 to a maximum of one year imprisonment and/or a \$5000 fine. The ICRA also requires tribes to provide a jury trial for all offenses punishable by imprisonment; the Constitution requires a jury trial only when the possible sentence exceeds six months. The most significant difference between the ICRA and the Constitution concerns the appointment of counsel for indigent defendants in criminal cases. The ICRA provides a right to counsel only if paid for by the defendant; it does not require tribes to provide an attorney at tribal expense. This difference stemmed from concerns that the cost of an indigent defender system would bankrupt tribes, many of whom had very limited tax bases or governmental revenue. Indigent defendants are entitled to an attorney in state and federal court only if charged with a felony (an offense punishable by more than one year in prison) or if convicted of a misdemeanor and sentenced to jail. Since the ICRA restricts tribes from imposing jail terms of more than a year, defendants in tribal court are entitled to an attorney only if sentenced to jail. Consequently, Congress decided not to mandate indigent defense counsel, given the more limited role of attorneys in tribal court and the potential impact on the tribal treasury.

In *Santa Clara Pueblo v. Martinez* (1978), the Supreme Court ruled that a person alleging a violation of the ICRA must file suit in tribal court. Federal courts can hear ICRA cases only if a person files a petition for a writ of *habeas corpus*, which contains significant prerequisites, most particularly the requirements that the tribe be holding the person in custody and that the person must first have exhausted tribal remedies before filing in federal court.

See also *Bill of Rights*; Santa Clara Pueblo v. Martinez (1978).

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BIBLIOGRAPHY

Indian Civil Rights Act, Public Law 90-284, 90th Cong., 2d sess. (April 11, 1968).

McCarthy, Robert J. "Civil Rights in Tribal Courts: The Indian Bill of Rights at Thirty Years." *Idaho Law Review*, vol. 34 (1998): 465-515.
Santa Clara Pueblo v. Martinez, 436 U.S. 49 (1978).

Indian Civilian Conservation Corps

Originally known as the Indian Emergency Conservation Work program, the Civilian Conservation Corps-Indian Division (CCC-ID) developed from the Emergency Conservation Work Act of 1933, the first piece of New Deal legislation to benefit Native Americans. Administered by the Office of Indian Affairs, the CCC-ID focused on increasing the value of, and income from, resources the Indians already possessed. Commissioner of Indian Affairs John Collier believed that Indians could become self-sufficient only by farming and ranching their own tribal lands. Although the tribes held over fifty million acres of land, they only gained 20 percent of their income from agriculture. In addition, most of the land was severely eroded. Collier hoped the CCC-ID would enable the Indians to make better use of their land.

The CCC-ID concentrated its efforts in forestry, development of grasslands, and abatement of soil erosion. Yet the final report of the program noted that workers had been involved in 126 different types of undertakings, encompassing such diverse activities as performing archaeological work in Arizona, restoring a historic council house in Oklahoma, and operating a fish hatchery in Wisconsin.

The six district offices that administered the CCC-ID were located west of the Mississippi River in areas with the greatest concentration of Indian population. Although the regular CCC employed only unmarried men and housed participants at boarding camps, the CCC-ID permitted married men who could live in boarding or family camps. Some camps let workers reside in their own homes. Typical enrollees earned \$30 for a twenty-day month.

The CCC-ID also provided education to workers. For the most part, the instruction was practical and related to work. Classes in safety, first aid, and mechanics were common. By 1940 enrollees could pursue a curriculum geared to secondary and even higher education.

With the onset of World War II (1914-1918), the CCC-ID experienced significant budget cuts. The program enjoyed renewed success, however, when enrollees were allowed to receive benefits from the National Defense Vocational Training Act. Hundreds of Indians found off-reservation jobs in the defense industries.

In 1942 the government abolished the CCC-ID. During its existence, the agency employed over eighty-five thousand Indians and expended \$72 million. Seventy-one percent of that money went to salaries and wages, with Indians receiving nearly 61 percent of those funds.

See also *Collier, John*; *Indian New Deal*.

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BIBLIOGRAPHY

Hanneman, Carolyn G. "Baffles, Bridges and Bermuda: Oklahoma Indians and the Civilian Conservation Corps-Indian Division." *Chronicles of Oklahoma*, vol. 77 (Winter 1999-2000): 428-449.

Civilian Conservation Corps and the Office of Indian Affairs. *Indians at Work*. August 1933-June 1945. This journal focused on Indians and the conservation work in which they were involved. In time, the publication included articles on all aspects of Indian life.

Lowitt, Richard. *The New Deal and the West*. Norman: University of Oklahoma Press, 1993.

Parman, Donald L. "The Indian and the Civilian Conservation Corps." *Pacific Historical Review*, vol. 40, no. 1 (February 1971): 39-56.

———. "The Indian Civilian Conservation Corps." Ph.D. diss., University of Oklahoma, 1967.

Salmond, John A. *The Civilian Conservation Corps, 1933-1942: A New Deal Case Study*. Durham, N.C.: Duke University Press, 1967.

Indian Claims Commission Act (ICCA; 1946)

The 1946 Indian Claims Commission Act established a government commission to hear the claims of "any Indian tribe, band, or other identifiable group of American Indians." The commission acted on several hundred claims until its demise in September 1978.

In 1855 Congress created a Court of Claims with jurisdiction over lawsuits filed against the United States. Some tribes filed such lawsuits, but in 1863 Congress explicitly prohibited claims "growing out of or dependent on any treaty stipulation entered into with foreign nations or with the Indian tribes." Indians were excluded altogether from the Court of Claims until 1881, when Congress passed a special jurisdictional act allowing the Choctaw tribe to file a claim. From that point, a tribe could sue in the Court of Claims only if Congress specifically authorized the claim. Up to

1924, tribes pursued thirty-nine claims through Congress and the Court of Claims, but the process was difficult.

Perhaps the first call for a special court to address Indian claims came in 1910 from Francis E. Leupp, former commissioner of Indian affairs, but Congress took no action. However, Indian contributions to the U.S. effort in World War I and the recognition of U.S. citizenship for Indians in 1924 improved their success in obtaining jurisdictional acts to sue in the Court of Claims: Congress authorized thirty-seven claims in the three years following the 1924 Indian Citizenship Act. Interest in addressing Indian claims increased after issuance of the 1928 *Meriam Report*, a critique of Indian administration that called for a commission to review Indian grievances. The American Indian Defense Association, a reform group headed by John Collier, expressed support for an Indian claims court as early as 1929. During his tenure as commissioner of Indian affairs (1933–1945), Collier consistently promoted the establishment of an Indian claims commission.

The first bill proposing a court of Indian claims was introduced in Congress in 1930, but it was defeated, as well as the other bills introducing a claims commission during the 1930s. Some members believed such legislation would enrich lawyers at the expense of the U.S. Treasury. Members also disagreed about the specifics of how a claims commission would work.

Congress continued to consider Indian claims bills in the 1940s, with a gap during World War II. Natives' participation in the war effort once again helped to build support for addressing their claims against the United States. In the summer of 1946, Congress finally reached agreement on the scope of an Indian claims commission and passed legislation. President Harry S. Truman signed the Indian Claims Commission Act (ICCA) on August 13, 1946.

The ICCA created a three-person commission (later expanded to five) to hear the claims of “any Indian tribe, band, or other identifiable group of American Indians.” It defined five broad categories of claims, which included “claims in law or equity arising under the Constitution, laws, treaties of the United States, and Executive orders of the President”; “unconscionable consideration” paid for lands under a treaty, contract, or agreement with the United States; and taking of lands without compensation. The commission provided only monetary awards and had no mechanism for or authority to return land.

Tribes had five years to file claims accruing before passage of the act. Any claims not filed by the 1951 deadline were

considered to have expired. (However, the filing date for claims was subsequently and repeatedly extended until the commission was disbanded in 1978.) The act gave the Court of Claims jurisdiction over Indian claims that accrued after its passage. The court would also hear appeals of the commission's decisions. Congress's directive was to resolve all legal and moral claims against the United States, once and for all.

Most of the claims filed dealt with land and were addressed in three stages: title, valuation, and offsets. First, the commission considered whether the tribe or group had title to the land at issue. Indian title was “recognized” if it was acknowledged in a statute, treaty, or executive order. “Aboriginal” title was more difficult to prove: the tribe or group had to demonstrate exclusive occupation and ownership for a long period of time. If the commission found that the tribe had a recognized or aboriginal title, the case could proceed to the second stage in which the commission determined whether the United States had taken the land without compensation or had paid too little for it. The commission determined the fair market value of the land at the time of the taking or cession, and it calculated the consideration paid, which might include money, goods, and services. Finally, the commission reviewed the government's proposed offsets—money it expended gratuitously for the benefit of a tribe—which would be deducted from the final award.

Tribes also filed claims for an accounting of funds and property the government held in trust on their behalf. For the accounting dockets, the General Accounting Office prepared lengthy reports tracking funds appropriated, invested, and expended for tribes under the terms of treaties or other instruments.

Both the United States and attorneys for the tribes offered testimony from numerous experts to make their cases—among them, anthropologists, historians, appraisers, and accountants. The experts' reports and testimony created a rich record of information about Indian settlement and land use, treaty negotiations and implementation, and the nature of lands taken or ceded. Documents from the Indian Claims Commission proceedings are held in Record Group 279 at the National Archives and Records Administration in Washington, D.C. Expert witness reports and testimony have been compiled on microfilm, and many of the anthropological reports were published by Garland Publishing Company in the 1970s.

Scholars have disagreed about whether the ICCA was the final achievement of the Indian New Deal or the first phase of the termination policy. Critics have faulted the commis-

sion for effectively extinguishing Indian title in cases of takings or cessions involving fraud, duress, or mistake. Over the life of the commission, Indians and their advocates complained about delays in their cases, which the commission tried to address through administrative reforms.

As noted, Congress extended the life of the commission several times, the last until September 30, 1978. Cases still pending at that time were transferred to the Court of Claims. In all, 370 petitions were filed, and they were divided into many more dockets (variously reported as 601 or 610). As of September 1, 1978, when the commission issued its final report, it had dismissed 204 dockets and in 342 dockets had issued awards that totaled just over \$818 million.

See also *Aboriginal Indian Title*; Collier, John; *Commissioner of Indian Affairs*; *Indian New Deal*; Leupp, Francis E.; Meriam Report; *Termination and Restoration*; *U.S. Indian Policy: Congress and the Executive, 1928–1946*; *U.S. Indian Policy: Congress and the Executive, 1944–1962*.

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BIBLIOGRAPHY

- Indian Claims Commission Act*, Public Law 726, 79th Cong., 2d sess. (August 13, 1946).
- Sutton, Imre, ed. *Irredeemable America: The Indians' Estate and Land Claims*. Albuquerque: University of New Mexico Press, 1985.
- U.S. Indian Claims Commission. *Annual Report*. Washington, D.C.: Government Printing Office, 1972.
- . *Final Report*. Washington, D.C.: Government Printing Office, 1979.

Indian Commerce Clause

The Indian Commerce Clause is part of the U.S. Constitution. Article 1, Section 8, clause 3 of the Constitution gives Congress the power “to regulate Commerce . . . with the Indian Tribes.” The clause has been crucial to three aspects of United States Indian policy: the status of Indian tribes, the authority of the states in Indian affairs, and the authority of the federal government over Indian tribes and affairs.

The clause represented a continuation of eighteenth-century British Indian policy. Throughout that period, the British government attempted to centralize control of Indian affairs and eliminate the role of the colonial governments. Those attempts culminated in the Proclamation of 1763, which consolidated the authority of the British government.

The Articles of Confederation, ratified in 1781, gave the Continental Congress “the sole and exclusive rights and

power of . . . regulating trade and managing all affairs with the Indians, not members of any of the States, provided that the legislative right of any State within its own limits not be infringed or violated.” The nationalization of Indian affairs authority under the Articles gave rise to considerable state expectation that they possessed an important role with regards to the issue.

The Indian Commerce Clause, included in the Constitution at the urging of James Madison, eliminated the reference to the states and gave the exclusive power to manage trade relations to Congress. Chief Justice John Marshall, in the famous case of *Cherokee Nation v. Georgia* (1831), agreed that the clause placed full authority over Indian relations in Congress, to the exclusion of the states. In the subsequent case of *Worcester v. Georgia* (1832), Marshall expressly concluded that “[t]he whole intercourse between the United States and [the Indian tribes] is, by our constitution and laws, vested in the government of the United States.” However, in *Cherokee Nation*, Marshall also held that because the clause separately addressed foreign nations and Indian tribes, Indian tribes were considered “domestic dependent nations” with no power to invoke the jurisdiction of the U.S. Supreme Court.

During the nineteenth and early twentieth centuries, the Supreme Court continued to view the Indian Commerce Clause as granting exclusive Indian affairs authority to the national government. The Court limited Congress’s power under the clause, however, ruling in *United States v. Kagama* (1886) that the clause did not provide constitutional authority for enactment of the federal Indian Major Crimes Act. The Court in *Kagama*, however, upheld the act as a valid exercise of the federal trust responsibility toward Indian tribes, thus authorizing the first congressional intrusion into the internal affairs of Indian tribes.

By the latter part of the twentieth century, the Court’s view of the Indian Commerce Clause had changed significantly. In *Cotton Petroleum Corporation v. New Mexico* (1989), the Court stated that “the central function of the Indian Commerce Clause is to provide Congress with plenary power to legislate in the field of Indian affairs.” Under this interpretation of the clause, Congress is not restricted to regulating affairs *with* the Indian tribes, but rather has constitutional authority to regulate the affairs *of* the Indian tribes.

Moreover, the Indian Commerce Clause is no longer the absolute barrier to state law that it was when Marshall conceived it. The Court has often authorized state law to be applied to non-Indians in Indian Country unless Congress

has taken steps to preempt the states. For example, in *Cotton Petroleum Corporation* the Court upheld state taxes on mining companies engaged in the extraction of tribal mineral resources within reservation borders. The Court has even found that in “exceptional circumstances” states may extend their laws to Indians within Indian Country, although it has confined those circumstances to state conservation laws for the preservation of species.

See also *Articles of Confederation*; *Cherokee Nation v. Georgia* (1831); *Constitution, U.S.*; *Proclamation of 1763*; *United States v. Kagama* (1886); *Worcester v. Georgia* (1832).

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BIBLIOGRAPHY

- Cherokee Nation v. Georgia*, 30 U.S. 1 (1831).
 Clinton, Robert N. “The Dormant Indian Commerce Clause.”
Connecticut Law Review, vol. 27 (1995): 1055–1147.
 Horsman, Reginald. *Expansion and American Indian Policy, 1783–1812*.
 Norman: University of Oklahoma Press, 1967.
New Mexico v. Mescalero Apache Tribe, 462 U.S. 324 (1983).
United States v. Kagama, 118 U.S. 375 (1886).
Worcester v. Georgia, 31 U.S. 515 (1832).

Indian Community Action Programs

During a meeting with members of the National Congress of American Indians in 1964, President Lyndon B. Johnson declared that American Indians would be at the forefront of his War on Poverty. Even though Johnson had no special plan for Indian tribes under his Economic Opportunity Act of 1964, historians argue that American Indians benefited more from Johnson’s poverty-fighting Community Action Programs (CAPs) than any other group in the United States.

Because CAPs bypassed local and state governments in fostering “maximum feasible participation” of the poor, Indian tribes, which had a direct relationship with the federal government through the Bureau of Indian Affairs (BIA), were the ideal recipients. Tribal governments were allowed to organize their own CAPs; funds did not go to the BIA. Programs covered everything from education and housing to industrial parks and sanitation systems. By 1967 CAPs were operating on 170 reservations. By 1970, \$70 million in federal funds had gone to Indian CAPs.

Indian communities experienced a sociopolitical makeover with the advent of CAPs. Tribal governments expanded to manage new projects, and several Indian college graduates returned to reservations for CAP-funded jobs. As

a result, new leaders emerged who were not tied to the BIA or to established tribal governments. These leaders were, however, often at odds with the tribal government over political representation and money allocation. Also, although CAPs allowed for the building of Indian centers in places such as Los Angeles and Minneapolis, urban-based Indians argued that CAPs unfairly gave priority to reservations. This struggle for representation frequently divided urban and reservation-based Indians, and a pan-tribal identity emerged among urban Indians that fostered much of the late 1960s Red Power activism. Further criticism was aimed at the failure of CAPs to promote permanent tribal financial stability through economic resource development. Commissioner of Indians Affairs Philleo Nash agreed. However, by the mid-1960s tribes had lost too much resource-rich land, and businesses were not enthusiastic about expanding onto remote reservations to organize an untrained Indian workforce.

Despite such criticisms, many tribes witnessed positive changes in their communities. For example, the Navajo tribe, which received more funding than any other tribe because of its size, built the Navajo Community College and the Rough Rock Demonstration School, two important experiments in Indian-controlled education. In a larger sense, CAPs strengthened Indians’ position in the political relationship between tribes and the federal government. For the first time, tribes were allowed to develop their own projects away from the paternalistic control of the BIA. In effect, then, Indians gained confidence that strengthened the era’s developing tribal self-determination movement and, in turn, helped to produce the Indian Education Act of 1972 and Indian Self-Determination and Education Assistance Act of 1975. In the grand scheme of Indian efforts to defend and exercise sovereignty, CAPs proved to be an ally to the cause.

See also *Indian Education Act (1972)*; *Indian Self-Determination and Education Assistance Act (1975)*; *Johnson, Lyndon B.*; *National Congress of American Indians*; *Self-Determination*.

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BIBLIOGRAPHY

- Castile, George Pierre. *To Show Heart: Native American Self-Determination and Federal Indian Policy, 1960–1975*. Tucson: University of Arizona Press, 1998.
 Clarkin, Thomas. *Federal Indian Policy: In the Kennedy and Johnson Administrations, 1961–1969*. Albuquerque: University of New Mexico Press, 2001.
 Cobb, Daniel M. “Philosophy of an Indian War: Indian Community Action in the Johnson Administration’s War on Poverty,

1964–1968.” *American Indian Culture and Research Journal* 22, no. 2 (1998): 71–102.

Deloria, Vine, Jr., and Clifford M. Lytle. *The Nations Within: The Past and the Future of American Indian Sovereignty*. Austin: University of Texas Press, 1998.

LaGrand, James B. *Indian Metropolis: Native Americans in Chicago, 1945–1975*. Urbana and Chicago: University of Illinois Press, 2002.

Lazarus, Edward. *Black Hills, White Justice: The Sioux Nation versus the United States, 1775 to the Present*. Lincoln: University of Nebraska Press, 1999.

Indian Country

“Indian Country” is the term used to denote a specific territory wherein American Indian peoples reside and engage in domestic self-government. Historically, the presence of non-Indian peoples was either nonexistent or severely limited in Indian Country. The term was used in an official or quasi-official fashion by British authorities in the eighteenth century and by United States authorities since the country’s founding.

Plans to legally separate the Anglo-American settler population from the Indian population and to reserve certain North American territories for Indian peoples had their origin during the French and Indian War (1754–1763). After the war, King George III issued the Proclamation of 1763, which prohibited British colonists from settling west of the line that ran north to south down the spine of the Appalachian Mountains. Land west of that line was declared the “Indian Reserve.”

After the American Revolutionary War (1775–1783), the U.S. government continued to attempt to draw a firm boundary line between settlers and Indians. Various trade and intercourse acts enacted between 1790 and 1834 sought to regulate all manner of interaction between Indians and settlers. These laws, along with the Indian Removal Act (1830), formally created a permanent territory in the trans-Mississippi region for the resettlement of eastern American Indians. Pressure by settler populations for new lands continued to reduce the size of Indian Country in the nineteenth century. In the 1850s and 1860s, federal commissioners began to favor the creation of separate reservations for individual Indian nations in lieu of a singular Indian Country. Despite this shift to the reservation system, however, these Indian lands continued to be referred to as Indian Country.

Since 1948 Indian Country has been defined by federal statute (18 U.S. Code § 1151). Relying on existing U.S. Supreme Court cases, Congress established three categories

of lands that would constitute Indian Country: all lands within Indian reservations, even if owned in fee by non-Indians; dependent Indian communities; and allotments still held in trust or restricted status located outside reservations. Although the Indian Country statute is located in the federal criminal code, the Supreme Court has stated that it applies to civil jurisdiction matters as well. In interpreting the statute, the Supreme Court has often invoked language it first used in 1914 in *United States v. Pelican*, in which it stated that Indian Country is land “validly set apart for the use of the Indian as such, under the superintendence of the federal government.” Under this approach, the Court has interpreted the term “reservation” broadly, to include, for example, lands held in trust for Indian tribes.

Indian Country status is important to determine jurisdiction over persons and lands. In general, federal jurisdiction is primary within Indian Country and state jurisdiction is limited or even nonexistent. Tribal governmental authority extends outside Indian Country only in certain limited circumstances.

See also *Indian Policy of the Continental Congress; Indian Removal Act (1830); Indian Territory; Proclamation of 1763; Reservations; Trade and Intercourse Acts; U.S. Indian Policy: Congress and the Executive, 1775–1803.*

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BIBLIOGRAPHY

- Newton, Nell Jessup, ed. *Cohen’s Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005.
- Prucha, Francis Paul. *American Indian Treaties: History of a Political Anomaly*. Berkeley: University of California Press, 1994.
- White, Richard. *“It’s Your Misfortune and None of My Own”: A New History of the American West*. Norman: University of Oklahoma Press, 1991.

Indian Country Today

Indian Country Today is a media enterprise that provides comprehensive coverage of Native American news, both from Washington, D.C., and from around the United States. Considered the most important media critic of U. S. Indian policy today, *Indian Country Today* publishes “more original journalistic content on American Indian issues than any other news source.”

The weekly newspaper, founded in 1981 by Tim Giago in Rapid City, South Dakota, has garnered numerous awards for its strong national editorial voice on Native American issues, especially those concerning religious freedom. In

1997 Giago won a Golden Quill award from the International Society of Weekly Newspaper Editors.

In 1988 the Oneida Nation of New York, through its Four Directions Media, purchased *Indian Country Today* and moved its headquarters to New York. The paper currently offers four rotating feature sections: Healthy Living; Education; Trade and Commerce; and Entertainment, Lifeways, Pow Wow Updates, and Tourism. In addition to the newspaper, *Indian Country Today* maintains an active Web site, indiancountrytoday.com, and offers subscribers access to podcasts, e-mail news alerts, RSS news feeds, and four quarterly magazines: *Pow Wow*, *Destinations*, *Education*, and *Business*. *Indian Country Today* also maintains an extensive archive of national American Indian news and perspective.

Martin D. Sommerness

Indian Education Act (1972)

The Indian Education Act of 1972 (IEA), along with the Indian Self-Determination and Education Assistance Act of 1975, marked a legislative shift in education policy from the termination era (during which the federal government sought to bring an end to the special status of Indian nations) to the self-determination era (when the approach became to let Indian people decide their own destiny). This change was brought on by the Indian rights movement of the 1960s. The acts represented a major shift from top-down legislation imposed from Washington, D.C., to legislation that had significant Indian input. The IEA was designed to provide funding to help meet the special needs of American Indian students after studies showed those students were underachieving in public or Bureau of Indian Affairs (BIA) schools.

Historically, United States Indian policy was set by non-Indians, but as Indians learned more about the national political process, they began establishing activist organizations, such as the National Congress of American Indians (1944), to make their voices heard. This process accelerated in the 1960s. A national Indian education conference held in 1969 in Minneapolis, Minnesota, was followed by the formation of the National Indian Education Association in 1970.

The idea of consulting and involving Natives when crafting Indian policy also gained impetus from the passage of the 1964 Economic Opportunity Act, which established the Office of Economic Opportunity (OEO). The OEO's policy of maximum feasible community participation in antipoverty programs led to its effort to develop communi-

ty leadership, including Indian leadership. The OEO helped fund two pioneering initiatives to develop locally controlled Indian education: the Rough Rock Demonstration School, founded in 1966, and Navajo Community College, founded in 1969.

As the Civil Rights movement directed America's attention towards the status of minorities, increasing concern about the condition of Native Americans spurred two major studies of Indian education. The National Study of American Indian Education, under the direction of University of Chicago scholar Robert J. Havighurst, provided a comprehensive examination of Indian schools and students from 1967 to 1971. Estelle Fuchs and Havighurst summarized the study's findings in the 1972 book *To Live on This Earth*. They concluded that the history of Indian education consisted of the "transmission of white American education, little altered, to the Indian child as a one-way process," with the goal of "assimilating him into the dominant white culture," which was "minimally effective" and resulted in a "record of absenteeism, retardation, and high dropout rates." They found that while most Indian students and parents approved of their schools, Indian community leaders were "overwhelmingly in favor of the school doing something to help Indian students learn about their tribal culture, which schools began exploring in the 1930s."

The results of a second study, produced by the Special U.S. Senate Subcommittee on Indian Education, were summarized in 1969 in *Indian Education: A National Tragedy—a National Challenge*. Senator Edward Kennedy, who took over as chair of the subcommittee after the assassination of his brother Robert, wrote a scathing criticism of Indian education in the report's preface. He reported that drop-out rates were twice the national average; that achievement levels of Indian children were two to three years below those of white students; that only 1 percent of Indian children had Indian teachers or principals; that a quarter of elementary and secondary school teachers preferred not to teach Indian children; and that Indian children, more than any other ethnic minority group, believed themselves to be "below average" in intelligence.

Based on the findings in the two reports, the Senate subcommittee staff drafted the Indian Education Act. Without Indian input, however, initial reaction in early 1972 from Indian Country was negative. As part of its effort to develop community leadership, the OEO had provided financial support to send a group of Indian students to Harvard University, Pennsylvania State University, Arizona State

University, and the University of Minnesota. Senator Kennedy enlisted the Harvard students to help gain support for the passage of the legislation. One of these students, William Demmert Jr. (Tlingit-Sioux), was brought to Washington, D.C., to help revise the legislation. Demmert later became the first deputy commissioner of education in the new Office of Indian Education set up under the Indian Education Act (IEA).

The IEA was the first major legislative victory of the new policy of Indian self-determination. In a special message to Congress on Indian affairs in 1970, President Richard Nixon, following his predecessor Lyndon Johnson's lead, supported Indian self-determination, but his administration opposed the passage of the IEA and went along only reluctantly with the Democratic majority in Congress.

In addition to the Office of Indian Education, the IEA also set up the National Advisory Council on Indian Education, comprised of fifteen members to be appointed by the president and nominated by Indian tribes and organizations. The council was directed to report annually to Congress on the state of Indian education. It also included sections providing competitive grants for public schools, adult education, and colleges and universities for training teachers for BIA schools with preference given to Indians.

The IEA also offered funding to all public schools both on and off Indian reservations with ten or more Indian students. These funds were for supplemental programs designed to meet the special needs of Indian students, including culturally appropriate curriculum materials. Indian parents and communities were to have a voice in designing these programs. This extension of federal responsibility to Indian children off the reservation and not tribally enrolled represented a recognition of how the federal Indian relocation policy of the 1950s had increased the number of urban Indians, many of whom lived in poverty.

Under the Johnson-O'Malley Act (JOM) passed in 1934 as part of the "Indian New Deal," the federal government had regularized payments to public schools to encourage them to educate Indian students, but that funding went into the schools' regular budget. In addition, in the 1950s Impact Aid legislation was passed to give public schools funds to educate both Indian children and the children of military personnel who lived on nontaxable land. At the same time as the passage of the IEA, JOM funding was restricted to meeting the special needs of Indian students. Despite repeated efforts by conservatives to combine IEA and JOM funding, they remain separate programs, but with reduced per-stu-

dent funding, with the JOM program administered by the Bureau of Indian Education.

The most recent incarnation of the IEA is Title VII of the No Child Left Behind Act of 2001 (NCLB). While language remains in Title VII concerning the need for culturally appropriate Indian education, the overall policy implication of NCLB is one-size-fits-all education that emphasizes academic accountability through the use of tests focusing on English language literacy and mathematics.

See also *Education: Boarding Schools; Education: Higher Education; Education: Public Schools; Indian Self-Determination and Education Assistance Act (1975).*

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BIBLIOGRAPHY

- Castile, George Pierre. *To Show Heart: Native American Self-Determination and Federal Indian Policy, 1960–1975*. Tucson: University of Arizona Press, 1998.
- Fuchs, Estelle, and Robert J. Havighurst. *To Live on This Earth: American Indian Education*. Garden City, N.Y.: Doubleday, 1972.
- Special Subcommittee on Indian Education, Senate Committee on Labor and Public Welfare, "Indian Education: A National Tragedy—a National Challenge," November 3, 1969, www.tedna.org/pubs/Kennedy/toc.htm.
- Szasz, Margaret Connell. *Education and the American Indian: The Road to Self-Determination Since 1928*. 3rd ed. Albuquerque: University of New Mexico Press, 1999.

Indian Financing Act (1974)

The Indian Financing Act of 1974 was passed to consolidate existing revolving loan programs authorized by the Indian Reorganization Act of 1934, the Oklahoma Indian Welfare Act of 1936, the Navajo-Hopi Rehabilitation Act of 1950, and the Snyder Act. In the act, Congress declared it the policy of the United States to provide capital to develop and utilize Indian labor and resources so that Indian communities could enjoy a standard of living from their own productive efforts comparable to that of neighboring non-Indian communities. The act authorized several economic development programs to be administered by the Bureau of Indian Affairs (BIA), including the Indian Revolving Loan Fund, the Interest Subsidy Program, the Loan Guaranty and Insurance Program, and the Indian Business Grants Program.

The only program to enjoy success has been the Indian Guaranteed Loan Program, which provides a guarantee for up to 90 percent of a loan to a tribe, a tribal business enterprise, one or more individual Indians, or a business entity that is at least 51 percent Indian owned. Individuals can

receive guarantees of up to \$500,000; tribes and business entities have received assistance of as much as \$7 million.

The Indian Financing Act was amended as part of the Native American Technical Corrections Act of 2005. It was hoped the amendment would encourage a secondary market in loans guaranteed under the program for purposes of encouraging more participation by lenders.

See also *Hopi-Navajo Relations; Indian Reorganization Act; Oklahoma Indian Welfare Act.*

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BIBLIOGRAPHY

Butler, Raymond V. "The Bureau of Indian Affairs: Activities Since 1945." *Annals of the Academy of Political and Social Science*, vol. 436, *American Indians Today* (March 1978): 50–60.

Indian Gaming Regulatory Act (IGRA; 1988)

President Ronald Reagan signed the Indian Gaming Regulatory Act (IGRA) in 1988, only a year after the Supreme Court decision *California v. Cabazon* (1987) was thought to have necessitated it. In *Cabazon*, the Court held that tribes could operate any gaming that was allowed elsewhere in the state and could do so without state intervention or oversight. Almost immediately after the ruling, Senator Harry Reid (D-Nev.) drafted the IGRA, which passed the Senate unanimously and the House by a vote of 323 to 84.

The IGRA defines three classes of gaming. Class I gaming includes traditional tribal games played for low-stakes prizes; Class II gaming includes bingo games, pull tab games, and unbanked card games not played against the house; and Class III encompasses lotteries, casino games, electronic games, and banked card games played against the house. The IGRA further establishes that Class I gaming cannot be prohibited on tribal trust lands and that Class II and III gaming cannot be prohibited if the state allows them elsewhere. If the state allows church bingo games, for example, it must allow tribal bingo halls. If a state allows dog racing or operates a lottery, it cannot prohibit tribes from opening casino ventures.

For Class III gaming, the IGRA requires tribes and states to negotiate in good faith to establish a tribal-state gaming compact. These compacts vary from state to state, and from tribe to tribe. They usually include a provision for tribal remittances of a portion of their casino profits to the state, a

regulatory scheme for the tribal operation, and a limit on the number and types of casino games to be allowed in each facility.

The IGRA specifies that gaming can occur only on tribal lands and that if new lands are taken into trust, gaming operations can be built only if that land is already contiguous to reservation property. Tribes can be granted permission to operate gaming establishments on noncontiguous land newly taken into trust only with the agreement of the governor of the state and the secretary of the interior.

The IGRA mandates that substantial percentages of tribal gaming revenues must be spent on tribal governance, economic development, and welfare initiatives, which can include per capita payments to tribal members. Tribes can use remaining profits to make donations to charitable organizations or to help fund the operations of local (non-Indian) government agencies.

Finally, the IGRA established the National Indian Gaming Commission (NIGC) to provide federal oversight of tribal gaming. The commission has three members, two of whom are required to be from tribes. In addition to providing oversight, the NIGC is charged with approving operational agreements between tribes and non-Indian management companies and providing information about tribal gaming in the United States.

More than 350 tribal gaming enterprises were operating in twenty-eight states in the early twenty-first century. Although tribes are not required by the IGRA to report their profits and are not subject to the Freedom of Information Act, the National Indian Gaming Association does collect and report on tribal gaming profits. According to the association, tribal gaming revenue in 2006 was \$25.7 billion. Although some tribes have done exceedingly well and benefited enormously from operating casinos, not all tribes in the United States have gaming, and only a small proportion of those tribes that do make a substantial profit.

The IGRA is controversial for many reasons. Some argue that the development of casinos and other gaming halls leads to environmental issues, lowers property values, and negatively impacts quality of life. As a result, some states have been uncooperative in the compacting process and have successfully attempted to invalidate the section of the IGRA that previously permitted a tribe to sue an uncooperative state. In *Seminole Tribe of Florida v. Florida* (1996), the Supreme Court invalidated that provision, holding that it violated the Eleventh Amendment's guarantee of state sovereign immunity.

Indian scholars and activists have also argued against the IGRA's compacting provision, claiming that the requirement violates tribal sovereignty and changes the nature of Indian-government relations by requiring interaction with the state, rather than federal, government. Additionally, some Indians argue that the tribal casino culture denigrates Native traditional culture and heritage.

See also *California v. Cabazon Band of Mission Indians* (1987); *Gaming*; *National Indian Gaming Commission*.

Renee Ann Cramer

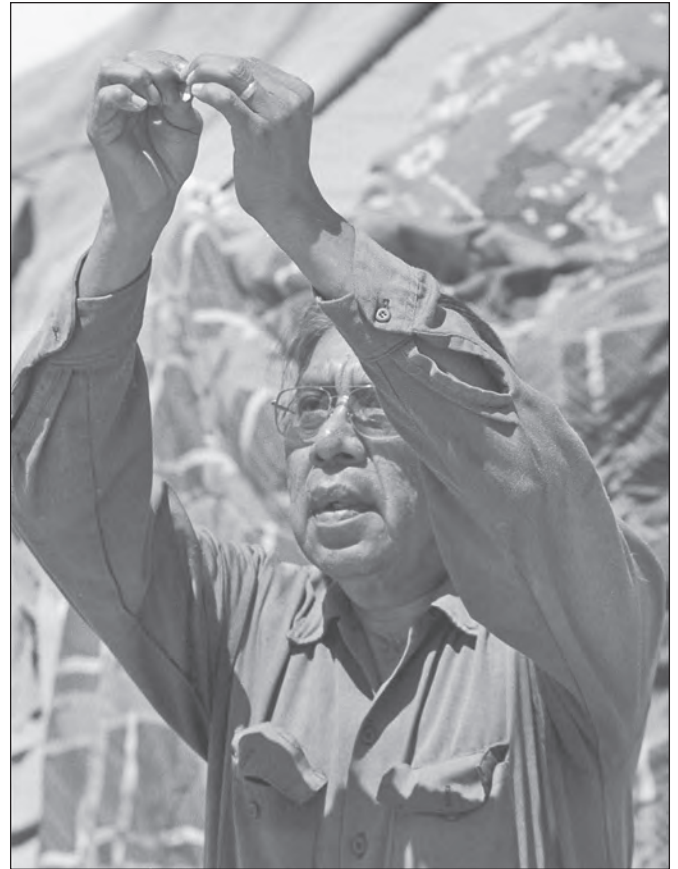
BIBLIOGRAPHY

- Cornell, Stephen, Joseph P. Kalt, Matthew Krepps, and Jonathan Taylor. *American Indian Gaming Policy and Its Socio-Economic Effects: A Report to the National Gambling Impact Study Commission*. Cambridge, Mass.: Economics Resource Group, 1998.
- Cramer, Renee Ann. *Cash, Color, and Colonialism: The Politics of Tribal Acknowledgement*. Norman: University of Oklahoma Press, 2005.
- "Indian Gaming Facts," *National Indian Gaming Association*, www.indiangaming.org/library/indian-gaming-facts/index.shtml.
- Mason, W. Dale. *Indian Gaming: Tribal Sovereignty and American Politics*. Norman: University of Oklahoma Press, 2002.
- Tsosie, Rebecca. "Negotiating Economic Survival: The Consent Principle and Tribal-State Compacts Under the Indian Gaming Regulatory Act." *Arizona State Law Journal*, vol. 29 (Spring 1997): 25–96.

Indian Health and Healthcare

Native American health and healthcare have undergone considerable changes from the pre-Columbian era to the present. Even prior to the arrival of Europeans and their introduced diseases, Native American societies confronted a variety of afflictions. In response, each indigenous society had a medical system to maintain health or offer healing after an illness occurred.

After contact with Europeans was initiated, Native Americans confronted a new set of health issues. Newly introduced European communicable diseases often had devastating effects, dramatically elevating mortality and morbidity rates, altering population structures and social organization, and challenging indigenous medical systems and cultural life. Each Native society responded to these health assaults in a variety of ways. And prior to the reservation period, the federal government began to slowly interject western biomedical practices among tribes to contend with health problems that were often created by cultural contact.



A man makes an offering skyward to the Creator in June 2001 in one of several measures used by his tribe and hospital in seeking solutions for the high rate of diabetes on the Gila River reservation. The rate of death by diabetes among Native Americans is 249 percent higher than for the general American population.

During the reservation era, the Indian Office devoted increased attention to health problems. Eventually Native American health and healthcare emerged as a major area within the federal government's trust responsibilities. By the early twenty-first century, the Indian Health Service (IHS) was one of eight agencies in the U.S. Public Health Service (USPHS), serving members of 562 federally recognized tribes in thirty-five states. However, despite dramatic improvements in American Indian health and care since the mid-twentieth century, health disparities remained.

Pre-Columbian Health and Healthcare

Studies in paleopathology and paleodemography, in conjunction with chemical and DNA analysis, demonstrate that indigenous populations prior to contact with Europeans had a substantial disease burden. Native American populations suffered from a variety of chronic infections, both non-

specific and specific. Indigenous populations experienced tuberculosis, pneumonia, a variety of respiratory and gastrointestinal illnesses, and an endemic venereal disease. Several types of infections persisted, including staphylococcal and streptococcal bacteria, poliomyelitis, pertussis, rhinoviruses, and forms of herpes and hepatitis.

Native peoples also endured many congenital, degenerative, and nutritional afflictions. Degenerative illnesses included arthritis, dental cavities, periodontal disease, and osteomyelitis, to name a few. They also experienced nutrition-related illnesses ranging from anemia to generalized malnourishment.

Many indigenous populations also exhibited evidence of parasitic infections. Domesticated and wild animals may have transmitted salmonella, shigella, and helminthic parasites, among others. Among sedentary agricultural societies, evidence reveals that head and body lice commonly infested populations.

Archaeological and ethnological data, in combination with evidence from skeletal biology, indicate that a variety of traumatic injuries from birthing problems, accidents, and violence occurred across Native North America. At a prehistoric Pueblo site in the American Southwest for example, 41 percent of the population apparently experienced a traumatic injury. All of the above health issues varied widely in severity among Native societies, influenced by local biological, environmental, and social conditions.

Aside from physical ailments and diseases, ethnological evidence notes that many Native American societies held beliefs about spiritual and psychological illnesses. Some believed that spiritual beings, witches, committing behavioral taboos, or not performing religious ceremonies and rituals could cause illness.

Although indigenous healing practices varied greatly between Native American societies, some basic healthcare practices were common to many. One general form of healing involved using animal parts or plants. Across Native North America, plant species were used as herbal medicines for the treatment of natural or physical illnesses and for the maintenance of physical health. Animal and plant parts also were used as medicines for spiritual strengthening, protection, or purification. Often such items were eaten or swallowed, worn by the person, or placed in special locations as offerings or for protection.

Many tribes also employed purification rituals to cure or prevent illnesses. Among many Plains tribes the sweat lodge served the above purposes. Southeastern tribes drank “black

drink” and afterwards induced vomiting to make the person healthful and morally pure. It was also common practice across Native North America to use tobacco, cedar, juniper, sweet pine, sage, or other plant materials to smoke or burn and use as a smudge to cleanse the body.

Many rituals and ceremonies embodied healing aspects or health prevention. As an illustration, the Navajo House Blessing ceremony, traditionally held to bless a newly constructed or re-inhabited dwelling, was conducted to avert misfortune through promoting harmony, health, and well-being for the inhabitants and, by extension, the whole tribe.

Stories, songs, and prayers in the proper cultural context and performed during the proper time of the year contained elements for health promotion, healing practices, and explanations for the onset of various sicknesses. Among the Tohono O’odham of Arizona, song in a ceremonial or ritual context was a powerful force evoking powers to heal or drive away illness.

Every Native American society had individuals and healing societies that were noted for their abilities to cure specific illnesses, whether they were physical ailments or spiritual issues. They also had richly diverse and complex medical systems to address the health conditions each society faced. These traditional medical systems faced serious challenges with the onset of European contact.

The Impact of European Contact on American Indian Health and Healthcare

European contact radically altered the general health status of Indian peoples. European infectious diseases, especially smallpox, ravaged Native American communities. It is estimated that between 1520 and 1900 there were at least ninety-three serious epidemics involving Old World pathogens among various American Indian tribes. In response to the rapid population losses and the social disruption that followed epidemic episodes, affected American Indian tribes initially turned to indigenous healing and care techniques. These included ritual bathing, sweating, and purging techniques, as well as the administration of herbal preparations. Cheyenne doctors used at least eight different plant medicines in an effort to cure and relieve the various symptoms of smallpox. While certain traditional curing procedures may have had some positive effects, others did not and in some cases contributed to the infected person’s death.

Experiences with Old World pathogens forced many tribes to reevaluate and reinterpret their ideological structures and cosmologies. In several instances, prophetic move-

ments arose following severe epidemic episodes. Native tribes living on the Columbia Plateau during the late eighteenth century and again in the late nineteenth century interpreted the arrival of European infectious diseases as a sign the spiritual world was unbalanced, requiring the destruction and rebirth of the world. The Ghost Dance movement among western tribes in the late nineteenth century also was associated with catastrophic population losses.

After the arrival of missionaries into their territories, some tribes began to incorporate Christian elements into their belief systems. By the early seventeenth century, the Huron had come to believe that Roman Catholicism was a medicine society with curing rituals, especially baptism. Other tribes, believing that aspects of their previous cosmologies no longer possessed the power to maintain balance and good health, adopted Christianity to reconfigure the world in the wake of epidemic diseases.

Many tribes also altered their classification of illnesses, dividing them into afflictions that could be addressed using traditional medical protocols and those—especially sicknesses of foreign origin—that could only be treated using non-Native techniques. The gradual adoption of European medical procedures began around the same time as the introduction of this system, as many tribes sought medical assistance from missionaries, military personnel, fur traders, settlers, and others.

Despite the periods of high mortality among tribes, as well as the deterioration of their health status, it was not until the early 1800s that federal health services for American Indians began under the auspices of the War Department, which administered Indian affairs. Army physicians provided occasional medical and emergency healthcare to Indian people in the vicinity of military posts. However, this medical care was intended primarily to protect the soldiers from infection, rather than to protect Indians from introduced European diseases.

In 1819 congressional legislation authorized \$10,000 annually to instruct Indian people in the “arts of civilization,” one of a string of authorizations that supplemented previous cash payments for the purposes of “education.” The superintendent of Indian trade initially distributed the money, but after 1824 the Office of Indian Affairs (OIA) under the War Department allocated it, primarily to missionary societies. Some minimal healthcare was delivered, largely targeting indigenous medical beliefs and practices. Linking healthcare to the process of civilizing Indian people through assimilation continued as official OIA policy until

1934, slowing most progress in improving Native American health.

The first legal commitment to provide a specific Indian nation with health services was made in 1832. The federal government negotiated a treaty with the Ho-Chunks (Winnebagos) that stated a physician would be provided as partial payment for ceded lands. By 1871, when Congress terminated treaty making, at least twenty-four ratified treaties promised some form of medical services. Although the federal government had a legal mandate to deliver healthcare to select Indian nations, such care remained infrequent and reactionary. In 1832, for example, Congress authorized monies to the secretary of war to vaccinate Indian people against smallpox. The vaccination effort fell short, failing to prevent the 1837–1838 smallpox pandemic from killing thousands of unvaccinated Natives.

After the transfer of the OIA to the newly created Department of the Interior in 1849, a bureaucratic structure formed to serve the growing health needs of Indian people under governmental control. By 1873 the OIA’s Division of Education and Medicine had developed a basic structure for healthcare delivery, the reporting of vital statistics from various Indian agencies, and the distribution of medical supplies.

Native American Health and the Early Implementation of Government Reservation Healthcare

In 1877 the Division of Education and Medicine was abolished and medical services were relocated under the Civilization Division, which later evolved into the Education Division. During this period, a civilian corps of physicians was placed at some Indian agencies and reservations. By the 1880s, the permanent settlement of most Indian people on reservations prompted the Indian administration to construct a system of hospital-based care and establish a nursing staff and a field matron corps. Although the availability of healthcare improved, inadequate facilities, a lack of medical supplies, transportation problems, and incompetent personnel, as well as a general resistance of many Indian people toward western medicine, negatively affected the success of treatment. The rejection of western medicine stemmed directly from the role that government-imposed reservation medical practices had in destroying Native American healing and religious beliefs. Western medicine was seen by the Indian Office as an important and necessary part of American culture, into which the OIA was

trying to assimilate the Native Americans. The primary role of reservation health practitioners was not only to fight diseases, but also to actively destroy and discredit the indigenous medical and religious systems, which they believed slowed the Indians' progress toward assimilation.

With their confinement on reservations, Native American tribes experienced a shift in health patterns. Acute infectious diseases, such as smallpox and measles, did occasionally erupt, but with less frequency and severity. However other illnesses emerged that were associated with the impoverished, crowded conditions of reservation life. Pneumonia, influenza, chronic diarrhea, dysentery, and especially tuberculosis and trachoma (an infectious eye disease that can result in blindness) reached epidemic proportions. During his time spent surveying reservation conditions as a department of interior Indian inspector from 1897 to 1901, William J. McConnell noted that the policy of keeping Indian schools filled to capacity at any cost in an effort to forcefully assimilate Indian children led to chronic outbreaks of tuberculosis, trachoma, and other illnesses. In some schools, 95 percent of children were infected with trachoma.

The poor health status of American Indians and the high incidences of diseases and mortality rates (especially infant mortality) that they suffered forced the Indian Office to make efforts to improve Native healthcare. Indian health officials, in response to further health surveys, instituted a number of specific disease control and health education programs on reservations. In 1911 the Indian Medical Service declared tuberculosis, trachoma, and infant mortality a national health tragedy. Medical doctors targeted boarding schools with campaigns to wipe out trachoma. Prior to 1930, Indian people had to undergo a painful four-to-six day procedure to cure the illness, but the discovery of sulfanilamide rapidly arrested the trachoma epidemic. Other disease control programs included smallpox vaccinations in 1901 and a 1935 venereal disease program in cooperation with the American Social Hygiene Association.

The OIA between 1911 and 1940 created tuberculosis sanatoria systems for boarding school students and adult Indians. As early as 1909 the OIA also launched a medical education program and by 1935 began a BCG (bacille Calmette-Guérin) vaccination program for tuberculosis.

President Howard Taft in a message before Congress in 1912 addressed among other issues that Indian mothers had a right to a safe birth and a healthy child. As part of a nationwide campaign, in 1916 the OIA launched the Save the Babies program on some Indian reservations. The health

education program sent field nurses into Indian homes to instruct Indian women in the practices of proper sanitation and childcare. The campaign, however, was not successful in significantly lowering infant mortality.

American Indian Health Conditions and Indian Office Health Care

The period between 1900 and 1955 marked revolutionary changes in the administration and practice of curative and preventive medicine. With regard to health organization, centralized medical supervision began in 1908 with the creation of the position of chief medical supervisor. The supervisor position was strengthened in 1924 with the creation of the Health Division of the OIA. Two years later, the Indian Medical Service underwent a general reorganization. The country was divided into four medical districts, each with a district medical director and a chief medical director. This reorganization was a response to the 1924 Snyder Act (also known as the Indian Citizenship Act), which designated that routine healthcare would be provided to Indian people by the federal government.

As these bureaucratic changes took place, the practice of medicine among Indian people also changed. These changes were largely prompted by major health surveys conducted by the U.S. Public Health Service in 1913 and the *Meriam Report* published by the Brookings Institution in 1928. The quality of hospital facilities improved greatly. At the turn of century, for example, Indian hospitals generally had fewer than 150 beds. This number grew to more than four thousand just before World War II (1939–1945). By 1955 the Bureau of Indian Affairs (BIA, formerly the OIA) had contracted with sixty-five community hospitals, sixteen tuberculosis sanatoria, and five mental institutions. Unfortunately, a low number of qualified medical personnel, combined with a lack of funds, prompted the BIA in 1952 to adopt a policy of closing some Indian health facilities and contracting health services out to state or local non-Indian hospitals. It was argued by policy makers that contract care was less expensive and allowed Indian patients to stay closer to home, but closings of Indian health facilities also paralleled the termination of many Indian tribes that called for the withdrawal of all federal services. Although some of the hospital closings were partially offset by the construction of twenty-four health centers in local Indian communities, the remaining hospitals were inadequate. By the mid-1950s only sixteen Indian hospitals and sanatoria met accreditation requirements of the Joint Commission on Accreditation of Hospitals.

Changes also occurred with regard to the personnel who staffed the Indian healthcare facilities. Health personnel employed by the BIA increased in number, qualifications, and occupational specialization. Beginning in 1926, physician-officers in the Public Health Service Commissioned Corps were detailed to hold health positions in the Indian Medical Service. Positions held by USPHS commissioned health officers grew slowly in number until the 1950 Doctor-Dentist Draft Law that permitted members to serve required duty in the USPHS. Under the law, by 1955 over fifty physicians; twelve public health nurses; and a few dentists, pharmacists, and sanitary engineers were working for the Indian Medical Service.

Dental services were instituted in 1913, with the assignment of five traveling dentists to visit Indian boarding schools and reservations. By 1925 the dental staff grew to seven, with some part-time contract services provided by local dentists. Under the direction of a public health dental officer in 1932, dental services expanded to twenty-eight full-time and seventeen part-time dentists by 1939. After 1950 dental needs were met by the assignment of public health service dentists to the Indian Medical Service, but dental healthcare delivery lagged far behind other medical services.

Public health nurses were added to the medical staff in 1924 as a result of a 1922 American Red Cross report. The number of nurses reached a peak of 110 in 1939, but declined to 70 in 1955. Indian participation in the Indian Medical Service began in 1935 with the establishment of the Kiowa School of Practical Nursing. Through a nine-month course of study, Indian women were trained in practical nursing skills.

As early as 1919, the House Committee on Indian Affairs recommended that Indian healthcare be taken out of the OIA and transferred to the USPHS. In 1949 the Association of State and Territorial Health Officers, the Governors' Interstate Council on Indian Affairs, the American Public Health Association, the American Medical Association, the National Tuberculosis Association, the Association on American Indian Affairs, and the 1949 Hoover Commission Task Force on Public Welfare lobbied heavily for the transfer, which was finally accomplished on July 1, 1955. The USPHS Division of Indian Health, it was argued, would provide a firm bureaucratic foundation for direct and contracted medical care to Indian people.

Throughout this period, the Indian Medical Service attempted to improve reservation sanitation, promote health

education, improve nutrition, seek state and local cooperation on Indian health issues, begin medical social work, and hire more qualified personnel. These changes were reflected in the federal appropriations for Indian health services. In 1911 appropriations for general health services among Indian people were \$40,000. By 1955 nearly \$18 million was allocated. However, despite some improvements and expansions in primary and preventative healthcare, this amount continued to be far below what was required to satisfactorily address the issue. In addition to underfunding, the success of the IHS was also marred by a failure to identify Indian health needs and a lack of qualified personnel. For Indian people, the inadequate delivery of healthcare meant the continuation of health disparities.

In 1955 American Indians and Alaska Natives in reservation states experienced significantly higher mortality rates for gastrointestinal diseases, diabetes mellitus, accidents, and tuberculosis. The 1955 tuberculosis mortality rate was 57.9 per 100,000 in reservation states, whereas the U.S. All Races rate was 6.9 per 100,000. The 1955 infant mortality rate—an indicator of health status—for American Indians and Alaska Natives was 62.7 per 1,000 live births. The U.S. All Races rate was 26.4 per 1,000. The top five leading causes of American Indian deaths in twenty-three reservation states between 1951–1953 were heart diseases (14.2 percent), accidents (14.1 percent), influenza and pneumonia (10.5 percent), tuberculosis (8.1 percent), and certain diseases of early childhood (7.1 percent). The result was that American Indian and Alaska Native life expectancy at birth for both sexes was 60.0 in 1950, compared to 69.0 years for the U.S. white population.

Expansion of Indian Healthcare and Improving Health

By 1962 the USPHS had assumed full jurisdiction over Indian health. Throughout the 1960s and into the early 1970s, Indian healthcare delivery and policy followed the general trajectory of Indian policy in other legal arenas. Under USPHS management, Congress continued to increase health appropriation monies, allowing the IHS to improve and extend services. The goal was to achieve a level of health and well-being comparable to the general non-Indian population. Despite the increase in appropriations, however, a 1966 report by the Commission on the Rights, Liberties, and Responsibilities of the American Indian stated that a large disparity remained between the health status of American Indians and the general population. Most impor-

tantly, the report concluded that the health status of American Indians would improve only when their economic condition was raised. Two years later, the IHS was created as a new branch within the USPHS, offering more funding and staffing.

The watershed for American Indian health legislation was in 1975. That year Congress passed the Indian Self-Determination and Education Assistance Act. The act permitted Indian nations to administer directly programs that were managed by the BIA or the IHS. The following year Congress passed the Indian Health Care Improvement Act, which established two major goals. The first was to elevate the health status of Indian people to the highest possible level. The second was to achieve maximum participation of American Indians in their health programs. Thus tribes began to enter into self-determination contracts and self-governance compacts to administer IHS programs and integrate traditional healing and healers into IHS medical facilities. The IHS extended services to urban areas, recognizing the health needs to the growing urban indigenous communities. The act also legally clarified and reiterated federal healthcare responsibilities outlined in the 1924 Snyder Act. An amendment was passed in 1980 to clarify further federal responsibility in elevating the health status of American Indians and Alaska Natives.

By 1980 the American Indian and Alaska Native infant mortality rate had dropped to 13.8 per 1,000 per live births. The U.S. All Races rate was 12.6 per 1,000. In addition, reductions were recorded for maternal death rates. The general improvement in health was also reflected in life expectancy. In 1980 the American Indian and Alaska Native age was 71.1, while the U.S. white population age was 74.4. These changes prompted a shift in the leading causes of Indian deaths to more chronic diseases and social pathologies. Heart diseases, accidents, malignant neoplasms, cirrhosis, cerebrovascular diseases, diabetes, violence, and suicides emerged as significant health issues.

The 1980s, especially during the administration of President Ronald Reagan, saw a decline in the funding of social services that led to new issues in healthcare delivery. The first issue was who was eligible for healthcare services. The Snyder Act had no express statutory language on who is eligible for IHS services. Since the 1974 Supreme Court decision *Morton v. Ruiz*, the IHS has attempted to limit eligibility of Indians by residence, blood quantum, or other criteria. A second related issue was whether the IHS is a primary or residual healthcare provider for Indian people. In

1986, in *McNabb v. Heckler, et. al.*, the U.S. District Court for Montana ruled that the federal government was primarily responsible for providing healthcare services. Since that ruling the IHS has had to assure reasonable healthcare for eligible American Indians and Alaskan Natives.

Despite legislative reinforcement of the Indian Health Care Improvement Act, responsibility for Native American healthcare, eligibility, and entitlement to services remains in the forefront in healthcare policy issues. Other areas of concern involve the availability and adequacy of health resources, self-determination and tribal assumption of health services, the extent of congressional control of healthcare policies for American Indians and Alaskan Natives, and the future of urban Indian health programs. As of the early twenty-first century, census data indicated that approximately 64.1 percent of the Native American population resided outside tribal areas, especially in urban areas. Despite this profound shift in population geography, the appropriation for urban Indian healthcare eroded steadily after 1980. By 2008 the remaining urban Indian health projects emphasized increasing access to existing services funded by private and public sources, rather than the IHS paying for those services directly.

Current Issues in Healthcare and Health Status

The primary responsibility of the IHS is to provide comprehensive healthcare at the highest attainable level for eligible Native Americans and Alaska Natives. The broad goals of the organization are to ensure equity in healthcare delivery, assist Indian and Alaska Native people in defining their health needs, establish local healthcare priorities, and provide management for health programs.

The IHS is composed of two major systems: (1) a federal healthcare delivery system, administered by federal personnel and; (2) a tribally based healthcare system, administered by Indian nations. Both systems contract healthcare services from over two thousand private providers. In addition, there are thirty-four urban Indian health projects located in city areas with concentrated Indian populations. The 2007 annual appropriation was \$3.2 billion dollars.

IHS headquarters is in Rockville, Maryland, although some of its functions are conducted in Phoenix, Arizona; Tucson, Arizona; and Albuquerque, New Mexico. The IHS is comprised of twelve regional administrative area offices located in Aberdeen, South Dakota; Albuquerque, New Mexico; Anchorage, Alaska; Bemidji, Minnesota; Billings, Montana; Nashville, Tennessee; Oklahoma City, Oklahoma;

Phoenix, Arizona; Portland, Oregon; Sacramento, California; Tucson, Arizona; and Window Rock, Arizona.

In 2007 there were 163 IHS and tribally managed service units. Tribal nations operated fifteen hospitals, 254 health centers, eighteen school health centers, 112 health stations, and 166 Alaska village clinics. The IHS operated thirty-one hospitals, fifty health centers, two school health centers, and thirty-one health stations. The IHS has more than fifteen thousand employees, of which over ten thousand are indigenous. The medical staff is comprised of physicians, dentists, physician assistants, and nurses.

As the Native American and Alaska Native population has grown, so has the service responsibility of the IHS. According to 2007 data, 1.9 million American Indians and Alaska Natives residing on or near reservations and approximately 600,000 urban indigenous peoples were served by the Indian Health Service census. Within the continental United States, the service population is comprised of 562 federally recognized Indian nations in all or parts of thirty-five states.

When data are compared between American Indian and Alaska Natives and other U.S. races, the indigenous population is younger, less educated, underrepresented in management and professional positions, and poorer. The ratio of American Indians and Alaska Natives living below the poverty level in 2007 was over twice that reported for the U.S. total population. Although there is considerable variation between services areas, the data indicate a growing population with a wide range of health needs that, despite some improvements, has not achieved health parity with the general U.S. population.

Since 1955 the infant mortality rate among American Indians has dropped considerably, but remains higher than the rate for the general U.S. population. The infant mortality rate for American Indians and Alaska Natives in 2007 was 9.3 per 1,000 live births. This was 22 percent greater than the U.S. All Races rate.

Chronic, behavioral, and some infectious diseases remain, in some instances in proportions markedly above the U.S. All Races rates. Compared to the U.S. general population, death from alcoholism is 627 percent greater among Natives; tuberculosis is 533 percent greater; diabetes mellitus is 249 percent greater; and alcoholism, suicide, and homicide are 500, 60, and 100 percent greater, respectively. More than one-third of patient demands at IHS facilities across Indian Country involve alcohol, substance abuse, and mental health related issues. Life expectancy, circa 2007, remained about

2.4 years less than the U.S. general population. In short, Indian and Alaska Native people remain a population at above-average risk.

Conclusion

The role and goals of the IHS have changed dramatically since its beginning in the early 1870s. During its bureaucratic development, it evolved from an organization devoted to forcibly assimilating Natives into American culture through the introduction of western medicine, to a reactionary association trying to control infectious diseases, and, finally, to a service devoted to providing comprehensive healthcare and promoting health equity among Indian and Alaska Native peoples. During the twentieth century, the health status of American Indians and Alaska Natives improved dramatically, especially after 1955. Despite tremendous gains in the level of healthcare available, however, they still have not achieved an equitable level of health with the general population. In the twenty-first century many Native people are beginning to reexamine the quality of western ideas of healthcare and consider revitalizing aspects of their traditional wellness practices.

See also *Indian Self-Determination and Education Assistance Act (1975); Self-Determination.*

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BIBLIOGRAPHY

- Alchon, Suzanne Austin. *A Pest in the Land: New World Epidemics in a Global Perspective*. Albuquerque: University of New Mexico Press, 2003.
- Brophy, William A., and Sophie D. Aberle, compilers. *The Indian, America's Unfinished Business: Report of the Commission on the Rights, Liberties, and Responsibilities of the American Indian*. Norman: University of Oklahoma Press, 1996.
- Campbell, Gregory R., ed. "Contemporary Issues in Native American Health." *American Indian Culture and Research Journal*, special edition 13, no. 3-4 (1989).
- Office of Technology Assessment. *Indian Health Care*. Washington, D.C.: U.S. Government Printing Office, 1986.
- Ogunwole, Stella U. *We the People: American Indians and Alaska Natives in the United States*. Washington, D.C.: U.S. Department of Commerce, U.S. Census Bureau, 2006.
- Putney, Diane T. "Fighting the Scourge: American Indian Morbidity and Federal Indian Policy, 1897-1928." Ph.D. diss., Marquette University, 1980.
- Rhoades, Everett R., ed. *American Indian Health: Innovations in Health Care, Promotion, and Policy*. Baltimore, Md.: Johns Hopkins University Press, 2000.
- Stuart, Paul. *Nations Within a Nation: Historical Statistics of American Indians*. Westport, Conn.: Greenwood Press, 1987.
- Thornton, Russell. *American Indian Holocaust and Survival: A Population History Since 1492*. Norman: University of Oklahoma Press, 1987.

U.S. Department of Health and Human Services. *Indian Health Service: Regional Differences in Indian Health*. Washington, D.C.: U.S. Government Printing Office, 1991.

U.S. Department of Health and Human Services. *Trends in Indian Health, 1998–99*. Washington, D.C.: U.S. Government Printing Office, 2000.

Verano, John W., and Douglas H. Ubelaker, eds. *Disease and Demography in the Americas*. Washington, D.C.: Smithsonian Institution Press, 1992.

Young, T. Kue. *The Health of Native Americans: Towards a Biocultural Epidemiology*. New York: Oxford University Press, 1994.

Indian Land Consolidation Act (ILCA; 1983)

The Indian Land Consolidation Act of 1983 (ILCA) sought to help tribal nations make the most of their single largest asset: collectively, over fifty-five million acres of land. The law prohibited members of Indian tribes who owned very small pieces of land within a reservation from passing the property to their heirs. Under the law, a property interest reverted to the tribe if it represented 2 percent or less of the original tract and was incapable of generating revenue of at least \$100 in any of the five years after the owner's death.

The ILCA had its roots in the General Allotment Act of 1887, also known as the Dawes Act. This legislation divided reservations into allotments that became the property of individual Indians. But through inheritance over the succeeding decades, some tracts of land became so fractionated and acquired so many owners—some over one hundred—that individual stakes could be as small as a few square feet.

The difficulty of contacting and reaching agreement among so many owners blocked development of the land. As one example, federal law requires any company wishing to lease oil, natural gas, pipeline, or transmission line rights on Indian land to contact a majority of the allottees that have an interest in the land. If the allottees cannot be located, then the acreage proposed for leasing must be handed over to the Bureau of Indian Affairs for auction. For the Interior Department, attempting to manage four million interests owned by 400,000 allottees, the land problem was out of control. The law aimed to consolidate these fractional shares of land under tribal ownership, so that the territory could be put to an economically efficient use.

In 1993 the children of William Youpee, a member of the Sioux and Assiniboine tribes, challenged the law. Youpee had left to his children land worth less than \$2,000 in thirty-four parcels on three reservations in Montana, North Dakota, and South Dakota. When an administrative law judge at the

Department of the Interior ruled that the land met the definition of property that must revert to the tribe, the Youpee heirs sued. In a brief filed on behalf of the Youpees, a group of tribal landowners argued that the economic test mandated by the ILCA was inadequate to measure the value of property that could be used for hunting, recreation, or religious ceremonies. In 1997, in an 8–1 vote, the Supreme Court ruled in *Babbitt v. Youpee* that the ILCA was unconstitutional because it violated the Fifth Amendment, which bans the government from taking private property “without just compensation.” Justice John Paul Stevens, the sole dissenter, argued that the law was justified by the government's interest in removing impediments to the productive development of land.

Congress amended the ILCA in 2000 in an attempt to save the legislation. The provisions provide compensation and restrict the inheritance of trust property to Indian persons only, including the non-Indian spouses and children of Indian decedents. If a non-Indian inherits, that individual receives only a life estate, or use of the land for their lifetime only. Under the ILCA as amended, if a deceased's interest in a land parcel is less than 5 percent of the entire interest, the share will pass to the heirs in joint tenancy. Joint tenancy means that those who hold title share the land, but the death of one partner automatically transfers that individual's share to the surviving partners.

The American Indian Probate Reform Act of 2004, sponsored by Senate Indian Affairs Committee chair Ben Nighthorse Campbell, R-Colo., attempts to address the fractional interest problem that deterred many energy companies from working with tribal nations to develop their resources. It further amends the ILCA to allow a co-owner to request a sale of a highly fractionated parcel of land for the purpose of making that parcel whole under one owner. It also allows small interests in land to pass exclusively to single heirs when the owner dies without a will.

See also *Allotment in Severalty*; *Bureau of Indian Affairs*; *Burke Act of 1906*; *Campbell, Ben Nighthorse*; *General Allotment Act (Dawes Act) of 1887*; *Oil and Gas*; *Trust Lands*.

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BIBLIOGRAPHY

- Lindo, Michelle M. “*Youpee v. Babbitt*: The Indian Land Inheritance Problem Revisited.” *American Indian Law Review* 22 (1997): 223–246.
- McCulley, Kristina L. “The American Indian Probate Reform Act of 2004: The Death of Fractionation or Individual Native American

Property Interests and Tribal Customs?" *American Indian Law Review* 30 (2005/2006): 410–422.

Wilkins, David E. *American Indian Politics and the American Political System*. Lanham, Md.: Rowman and Littlefield, 2006.

Indian Law Resources Center

The Indian Law Resource Center provides legal assistance and advocacy help to Natives throughout the United States. Created in 1978, the center focuses on protecting Indian lands, resources, and human rights, as well as the environment and Native cultural heritage.

The center has been involved in several cases regarding Indian lands. In the 1990s agricultural development in Florida forced members of the Independent Traditional Seminole Nation of Florida off their lands. The center purchased 2,500 acres of undeveloped land for the use of the Seminoles. However, since traditional Seminole spiritual laws do not allow ownership of land, the center established the Red Bay Stronghold Foundation to hold title on their behalf. The center also helped Carrie Dann, a Western Shoshone, win a 2002 Inter-American Commission on Human Rights decision stating that the United States had violated her human rights by claiming ownership to traditional Western Shoshone lands that she used for grazing cattle.

In 1994 the center began the Northern Plains Project to provide legal services to tribes in North Dakota, South Dakota, and Montana. As part of this project, the center represented the Cheyenne River Sioux tribe when rock climbers sued to gain year-round access to Devil's Tower in Wyoming. In 1995 the National Park Service asked the climbers to voluntarily refrain from scaling the tower in June, when Native Americans perform religious ceremonies at the site. The climbers argued that the park service's action violated the First Amendment by supporting religious affairs. In 2000 the U.S. Supreme Court ruled against the climbers.

See also *American Indian Religious Freedom Act of 1978*; *Dann Sisters*; *National Parks*; *Sacred Sites*.

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BIBLIOGRAPHY

- Bonham, Charlton H. "Devil's Tower, Rainbow Bridge, and the Uphill Battle Facing Native American Religion on Public Lands." *Law and Inequality*, vol. 20 (Summer 2002): 157–202.
- Indian Law Resource Center. *Indian Rights-Human Rights: Handbook for Indians on Human Rights Complaint Procedures*. Washington, D.C.: Indian Law Resource Center, 1984.

Indian Mineral Development Act (1982)

Prior to Congress passing the Indian Mineral Development Act in 1982, tribes had limited control over their mineral resources or leases. The act met two main objectives: furthering tribal regulation of Native property and maximizing financial returns from tribal mineral resources. The act created alternatives to the standard mineral lease by allowing tribes to negotiate more favorable terms and conditions from companies seeking access to tribal mineral resources.

The act also broadened the types of mineral resources covered and permits development arrangements of various kinds, subject to approval by the U.S. interior secretary, who acts as trustee for the tribes. Accordingly, the secretary must decide if the agreement is in the "best interest of the Indian tribe," and tribes may ask the secretary to provide assistance and information during negotiations. Tribes may enter into "any joint venture, operating, production sharing, service, managerial, lease or other agreement" in which it "owns a beneficial or restricted interest." The act also extends the trust doctrine over the agreements; however, it provides the United States "shall not be liable for losses."

In *Quantum Exploration, Inc. v. Clark*, the Ninth Circuit Court of Appeals defined "negotiation" to encompass the entire period from initial contact with tribal representatives to the secretary's final decision. This allows greater flexibility and gives a tribe the right to rescind any agreement before the secretary's final decision. According to the court, this interpretation is consistent with the trust doctrine and the secretary's responsibility to assist tribes.

See also *Mining and Mineral Rights*; *Trust Responsibility Doctrine*.

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BIBLIOGRAPHY

- Indian Mineral Development Act*, Public Law 97-382, 97th Cong., 2d sess. (December 22, 1982).
- Indian Mineral Leasing Act of 1938*, 25 U.S.C. §§396a–396g.
- Quantum Exploration, Inc. v. Clark*, 780 F.2d 1457 (9th Cir. 1986).

Indian New Deal

The Indian New Deal was part of President Franklin Roosevelt's sweeping Depression-era reforms. Spearheaded by John Collier, the commissioner of Indian affairs from 1933–1945, and other New Deal reformers such as Harold Ickes, Felix Cohen, and Nathan Margold, the Indian New

Deal sought nothing less than the overthrow of decades of flawed Indian policy. In general, it attempted to reverse the consequences of allotment and assimilation, which had been the focus of previous Indian legislation. The Indian Reorganization Act of 1934 (IRA) stood at the center of Collier's reform agenda and endeavored to give tribes more authority over their economic, cultural, educational, and political affairs.

Background to the Indian New Deal

Prior to the Indian New Deal, federal policy had attempted to wipe out Indian cultural traditions and assimilate all Natives into American society. Federal initiatives of the late nineteenth century, including the General Allotment Act (Dawes Act) of 1887 and the federal boarding school system, were designed to achieve these goals. By the 1920s the failure of these policies had become apparent, and a group of white and Native reformers insisted that it was time to stop forcing Indians to abandon their culture and religion. They also wanted to improve economic conditions and increase political autonomy on the reservations.

In 1926 the U.S. secretary of the interior appointed a team of investigators to inspect and report back on the condition of Indian reservations. The resulting *Meriam Report* (1928) stated that the "overwhelming majority of the Indians are poor, even extremely poor, and they are not adjusted to the economic and social system of the dominant white civilization." Lack of proper healthcare, substandard housing, a poor diet, and poverty led to health problems, diseases, and mortality, and the Office of Indian Affairs' (OIA) policy of forced assimilation had done nothing to alleviate those problems. The report suggested improving Indians' medical care, reforming the OIA, and phasing out allotment and boarding schools. Many of these suggestions were subsequently incorporated into the Indian New Deal.

After the publication of the *Meriam Report*, conditions on reservations worsened with the onset of the Great Depression. This new economic crisis, as well as drought and a series of severe winters in the West, outstripped the ability of private relief to provide assistance. When Roosevelt took office in 1932, he promised a "new deal" for the poor and helpless, which, for the first time, included Native Americans.

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To carry out his promise of reforming Indian policy, Roosevelt appointed Harold Ickes as secretary of the interi-

or and John Collier as commissioner of Indian affairs; both were supporters of Indian reform. Originally a social worker, Collier was converted to the Indians' cause after a trip to New Mexico. After observing Taos Pueblo, Collier came to view Native society as an antidote to the materialistic, industrial world. As such, he believed that Indian culture needed to be saved, not destroyed. He translated his ideas into action by serving as the executive secretary of the American Indian Defense Association (AIDA), an organization which wanted to end allotment and promote religious and cultural freedom. He also worked to defeat the Bursum Bill (1922), which threatened Pueblo land and culture.

After Roosevelt appointed him commissioner, Collier worked to implement the AIDA's agenda. First, however, he attempted to deal with reservation poverty by integrating Indians into the expanding New Deal programs. In June 1933 Collier persuaded the new Public Works Administration to create a separate "Indian Desk" to funnel federal relief funds to reservation construction projects. He also added an Indian section to the Civilian Conservation Corps. By the end of the New Deal period, Collier had used existing programs to improve the infrastructure of reservations, distribute food, and provide jobs.

Second, Collier dismantled past government programs that had undermined Indian culture and religion. For example, Circular Number 2970 (January 1934) forbade the government from interfering with Indian dances and other religious traditions. Compulsory religious education was also removed from boarding schools, and Collier closed six such schools and encouraged Native children to attend day schools closer to their homes. The Johnson-O'Malley Act (April 1934) provided federal funds to public school districts that educated Indian children. Although primarily targeted at education, funds were also earmarked for other purposes, including medical care, agricultural assistance, and social welfare.

After these initial steps were completed, Collier conducted a series of ten Indian congresses (March–April 1934) to discuss more wide-ranging changes to federal Indian policy. During these congresses Collier explained his proposed reforms and asked for Indian input into the new legislation. Based partially on his discussions at the Indian congresses, Collier presented to the U.S. Congress in February 1934 a massive piece of legislation designed to completely overhaul Indian affairs. Nathan Margold, the Interior Department solicitor, and Felix Cohen, the head of Margold's legal staff, served as the chief legal architects of the legislation. Totalling

forty-eight pages, this reform bill was divided into four sections (called titles) dealing with Indian self-government, education, lands, and a proposed court of Indian affairs.

Title I provided for a new system of tribal government. Reservations would no longer be ruled by agents. Instead, Indian tribal councils, under the jurisdiction of the secretary of the interior, would rule themselves. Title II focused on education. Funds would be provided to train Indians to take over service positions in the OIA. This section also repealed prohibitions on indigenous religious activities and cultural traditions. Programs would be implemented to promote indigenous languages and crafts. Title III repealed the Dawes Act and prohibited all future allotments. If possible, tribal lands would be reacquired and placed under tribal management. Title IV created a national court of Indian affairs. This court would hear major criminal and civil cases involving Native Americans.

Debate over the Bill

Debate immediately erupted over every section of Collier's bill. Many congressmen and white reformers protested the bill's movement away from assimilation. This group—especially Protestant missionaries—argued that Indians could only be “saved” if they adopted white cultural norms and religion. Other white reformers and government officials worried that the proposed bill was too expensive, while still others saw the reforms as promoting communism.

Indians across the United States also found the proposed legislation problematic. On each reservation, some Native Americans held private property, spoke English, and practiced Christianity. They were concerned that the legislation would take away their property. They also worried that the creation of tribal governments would further segregate them from American society. Other Native Americans argued the opposite point of view, stating that the new governments would usurp established tribal governments and further undermine tribal culture.

Despite the Indian congresses, many tribes also argued that Collier had failed to consult them when he put together his proposals. They contended that it was yet another example of paternalistic behavior where a white man felt that he knew what was best for Indians. This criticism, more than any other, haunted Collier throughout his tenure in office.

Revised IRA (Wheeler-Howard Bill) Becomes Law

As the debate raged over the Indian reform bill, Burton K. Wheeler, the chair of the Senate Committee on Indian

Affairs, and Edgar Howard, the chair of the House Committee on Indian Affairs, introduced a much smaller and revised bill to Congress. This bill, known as the Indian Reorganization Act (IRA), or the Wheeler-Howard Act, was signed into law June 18, 1934.

Several key parts of Collier's initial bill were cut from the revised version. For example, the mandatory transfer of allotted lands back to tribes was made voluntary. Moreover, the statement promoting preservation of Indian cultures was deleted, as was the proposed court of Indian Affairs. Collier's proposal to end the problem of fractioned allotments also did not make it into the final act. Finally, the act did not apply to Oklahoma tribes and Alaska Natives, although subsequent legislation extended the IRA to these groups.

Despite these omissions, the IRA ended allotment and restored surplus reservation lands to tribal ownership. Each tribe could also establish its own government and draft a constitution, subject to the approval of the Department of Interior. The IRA also created a loan fund for tribal enterprises for educational expenses. Finally, Indians were exempted from civil service regulations. The Wheeler-Howard Act would not apply to tribes without their approval. If a tribe voted to accept the act, they could begin to write their constitutions.

Accepting or Rejecting the IRA

To counter the criticisms of the Indian New Deal, John Collier traveled around the country, campaigning for tribes to accept the IRA and begin writing their own constitutions. Despite Collier's best efforts, the acceptance process did not go smoothly on most reservations. While some tribes immediately accepted the IRA and began to write their constitutions, other tribes rejected it outright or were sharply divided and voted to pass it by small margins.

Tribes who barely passed, or rejected, the IRA did so for a variety of reasons. Foremost among the complaints was that they had not been formally consulted; it was yet another example of Congress telling the Indians how they should organize their governments. Moreover, many tribes were unhappy with the type of governments they were expected to create. The OIA wanted tribes to implement American-style representative governments, instead of more traditional tribal forms. The voting process was also flawed; on many reservations only a small percentage voted for the IRA, and yet it was accepted for the entire tribe. For example, on the Pine Ridge reservation, over 44 percent of the eligible voters did not cast a ballot. According to Lakota culture, the fail-

ure to vote was most likely a sign a disapproval for the IRA. Despite these small numbers, the IRA was implemented on the reservation.

In addition to problems inherent in the IRA itself, local concerns also colored views of the Indian New Deal and worked against its acceptance. The most frequently cited case study is that of the Navajos. Prior to the tribal vote on the IRA, the Navajos had clashed with Collier over livestock reduction. For the Navajos, livestock was a central part of their economy and culture. Collier, however, blamed Navajo livestock for overgrazing and harming the environment, and he imposed rigid reduction quotas on the tribe. Many Navajos found it impossible to overcome the loss of their animals and were angry with Collier. This anger was transferred to the IRA and ultimately contributed to its defeat by the tribe.

The Navajos were not alone in their negative response to the IRA. Whether for general philosophical problems with the act or for more personal reasons, seventy-eight other tribes voted to reject the IRA. In the end, of the ninety-seven thousand eligible Indian voters across the country, only thirty-eight thousand voted to accept the IRA; thirty-five thousand never showed up at the polls, and twenty-four thousand voted to reject it. Despite these less-than-promising numbers, 174 tribes eventually voted to accept the IRA and worked to write their own constitutions.

Another law dealing with Indian affairs passed during the depression era was the 1935 Indian Arts and Crafts Act, which established a board to promote the manufacture and marketing of tribal arts and crafts. To accomplish its goals, the board attempted to devise a system of trademarks to protect handmade crafts. Rene d'Harnoncourt, an art dealer and museum curator, headed the board and staged exhibits across the nation to create a market for Native goods.

End of the Indian New Deal

Many different factors contributed to the end of the Indian New Deal. Republican opposition to Collier and his ideas continued throughout his term and eventually worked to undermine his legislation. Collier faced opposition from both liberals and conservatives: liberals and many Native Americans felt that he had not gone far enough in reforming Indian affairs, while conservatives complained that he had undermined assimilationist programs. The coming of World War II (1939–1945) also contributed to the end of the Indian New Deal by diverting attention and funds from Indian reform. Congress slashed the OIA's budget and its

personnel. In 1941 the War Department's need for further office space in the Washington, D.C., area even forced the OIA to move its headquarters to Chicago. This move made it more difficult for Collier to press Congress for further reform. Finally, in 1945 Collier resigned.

World War II also challenged the basic philosophy of the Indian New Deal—that forced assimilation to Anglo-American society should end. Instead, the war resurrected the previous pressure to integrate Indians into American society. During the war period, many Indians left their reservations to serve in the military or work at wage-earning jobs. The media focused on Indians like Ira Hayes who was immortalized for the flag-raising at Iwo Jima. By highlighting the accomplishments of Indians like Hayes, the media seemed to be informing the public that Native Americans were patriotic and ready to assimilate into American society. These trends would culminate in the postwar policies of termination and relocation, which attempted to move Indians off of reservations and take away their status as tribes. The policies of the 1950s stood in stark contrast to the philosophy behind the Indian New Deal.

See also *Allotment in Severalty; Assimilation and Acculturation; Cohen, Felix S.; Collier, John; General Allotment Act (Dawes Act) of 1887; Ickes, Harold L.; Indian Arts and Crafts Act (1990); Indian Reorganization Act (1934); Johnson-O'Malley Act (1934); Meriam Report; Self-Determination; Termination and Restoration; Wheeler, Burton K.*

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BIBLIOGRAPHY

- Biolsi, Thomas. *Organizing the Lakota: The Political Economy of the New Deal on the Pine Ridge and Rosebud Reservations*. Tucson: University of Arizona Press, 1993.
- Cohen, Felix S. *On the Drafting of Tribal Constitutions*. Norman: University of Oklahoma Press, 2007.
- Daily, David W. *Battle for the BIA: G. E. E. Lindquist and the Missionary Crusade against John Collier*. Tucson: University of Arizona Press, 2004.
- Edmunds, R. David, Frederick E. Hoxie, and Neal Salisbury. *The People: A History of Native America*. New York: Houghton Mifflin, 2006.
- Hauptman, Laurence M. *The Iroquois and the New Deal*. Syracuse, N.Y.: Syracuse University Press, 1981.
- Kelly, Lawrence C. *The Assault on Assimilation: John Collier and the Origins of Indian Policy Reform*. Albuquerque: University of New Mexico Press, 1983.
- Kersey, Harry A., Jr. *The Florida Seminoles and the New Deal, 1933–1942*. Boca Raton: Florida Atlantic University Press, 1989.
- Kunitz, Stephen J. "The Social Philosophy of John Collier." *Ethnohistory*, vol. 18, no. 3 (Summer 1971): 213–229.
- Mekeel, Scudder. "An Appraisal of the Indian Reorganization Act." *American Anthropologist*, vol. 46, no. 2 (April–June 1944): 209–217.

- Parman, Donald L. *The Navajos and the New Deal*. New Haven, Conn.: Yale University Press, 1976.
- Philp, Kenneth R. *John Collier's Crusade for Indian Reform, 1920–1954*. Tucson: University of Arizona Press, 1977.
- Reinhardt, Akim D. “A Crude Replacement: The Indian New Deal, Indirect Colonialism, and the Pine Ridge Reservation.” *Journal of Colonialism and Colonial History*, vol. 6, no. 1 (2005). Available online at http://muse.jhu.edu/journals/journal_of_colonialism_and_colonial_history/v006/6.1reinhardt.html.
- Schrader, Robert Fay. *The Indian Arts and Crafts Board: An Aspect of New Deal Indian Policy*. Albuquerque: University of New Mexico Press, 1983.
- Taylor, Graham D. *The New Deal and American Indian Tribalism: The Administration of the Indian Reorganization Act, 1934–45*. Lincoln: University of Nebraska Press, 1980.
- Washburn, Wilcomb E. “A Fifty-Year Perspective on the Indian Reorganization Act.” *American Anthropologist*, vol. 86, no. 2 (June 1984): 279–289.
- White, Richard. *The Roots of Dependency: Subsistence, Environment, and Social Change among the Choctaws, Pawnees, and Navajos*. Lincoln: University of Nebraska Press, 1988.

Indian Peace Commission

Congress established the Indian Peace Commission in 1867 to end Indian conflicts in the West and to place the responsibility for negotiating treaties with civilian and military leaders who were knowledgeable about Indian relations. After the American Civil War (1861–1865), the U.S. government's objective was to “civilize” Natives and save them from extinction. The grand plan involved placing Indians on reservations as a way to keep white Americans safe and provide for orderly transport across, and settlement into, the West. General Ulysses S. Grant supported the plan and believed that confining Native peoples to reservations could save the government \$1 million a week. With a directive to establish peace on the western frontier, the Indian Peace Commission traveled to the Great Plains to negotiate with several tribes and to promote the creation of two large reservations.

Several events motivated Congress to seek an end to hostilities with Natives. The Sand Creek massacre (November 28, 1864) of approximately 150 Cheyenne and Arapaho Indians by Colorado militiamen had shocked the American public in the East. The December 1866 Fetterman Massacre also raised public fears about the unrest in the West. (The Lakotas had lured Captain William J. Fetterman out of Fort Phil Kearny and ambushed him and some eighty of his men, the worst defeat for the army on the Plains up to that time.) Indian attacks on the migrant trails across the Great Plains and south into Texas also demonstrated that the United States' western territories were in a state of disorder.

Creation of the Commission

On July 16, 1867, Senator John B. Henderson of Missouri introduced a bill calling for an official council to meet with Native nations on the Great Plains. Congress approved the commission on July 20, 1867, to establish peace with certain Indian tribes. Three specific commands were given to the commission: (1) “to remove, if possible, the causes of war”; (2) to “secure, as far as practicable, our frontier settlements and the safe building of our railroads looking to the Pacific”; and (3) to create “some plan for the civilization of the Indians” (Francis Paul Prucha, *Documents of United States Indian Policy*, 2000).

The commission was comprised of eight members, a mix of civilians (including Office of Indian Affairs officials) and army officers. All the civilian members except Senator Henderson had military experience. The civil-military mixture proved practical because the civilians would administer the reservations and the army would deal with hostile Natives off the reservation. The combination also reflected the decade-old argument about whether the War or Interior Department was best equipped to deal with the “Indian problem.”

The civilians included Henderson, who represented the legislative branch; former Methodist minister, Tennessee congressman, and commissioner of Indian affairs Nathaniel A. Taylor (who served as the commission's president); prominent abolitionist and Native rights activist Samuel F. Tappan; and John B. Sanborn, who negotiated the Treaty of Little Arkansas with the Kiowa, Comanche, Plains Apache, Southern Cheyenne, and Southern Arapaho tribes in 1865. President Andrew Johnson (1808–1875) appointed the military officers: Civil War veteran and commander of the Department of the Platte General Christopher C. Augur; Civil War veteran and Yale law graduate, General Alfred H. Terry, who commanded the Department of the Dakota; William S. Harney, a retired veteran of many Indian wars; and commander of the Military Division of the Missouri and war hero Lieutenant General William T. Sherman. Sherman, however, was recalled to Washington and never took part in the first round of negotiations. Six newspaper reporters joined the entourage.

Treaties of Fort Laramie and Medicine Lodge Creek

The commissioners wanted to hold two meetings with several different nations attending each meeting. The first began

on September 13, 1867, at Fort Laramie with the western Dakota nations. The second was held a month later at Fort Larned with the Cheyennes, Kiowas, Comanches, Arapahos, and Kiowa Apaches.

At Fort Larned the Indian nations wanted the negotiations moved to Medicine Lodge Creek, a traditional ceremonial site. The first order of business was the commissioners' apology for General Winfield Scott Hancock's earlier military expedition that burned several Native villages—a gesture that helped clear the air for negotiations. After three days of discussions and distribution of presents, the group signed a treaty. The agreement gave provisions, schools, agricultural supplies, and weapons to the nations in exchange for the establishment of one large concentrated reservation. The United States also agreed to allow the tribes to hunt on their old lands as long as the buffalo survived and pledged to keep white settlers out of the area for three years. The Comanche, Kiowa, and Apache reservation formed in southern Indian Territory was 4,800 square miles. In total, the commission negotiated three treaties that most refer to collectively as the Medicine Lodge Creek Treaty.

After the treaty, young warriors began to rebel against the agreement. Specifically, the cause of conflict involved the flawed process of federal treaty-making. As usual, the Senate moved slowly in ratification of treaties and often made changes that were not approved by the Indian tribes. Moreover, once the Senate ratified an Indian treaty, the House of Representatives often refused to appropriate money to meet the treaty obligations. The scenario for the Medicine Lodge Treaty was no different. The treaty did not obtain Senate approval until July 1868.

These circumstances led to violations by both whites and Indians, and often contributed to conflict. A federal Indian agent supplied the Kiowas, Cheyennes, Arapahos, and Comanches with arms, and a war broke out.

The Fort Laramie meeting planned for 1867 with the Dakota tribes never took place, as only the peaceful Crows showed up. The Lakotas and their leader, Red Cloud, refused to attend until the U.S. Army abandoned forts on the Bozeman Trail. In March 1868 General Grant ordered troops to withdraw from the three forts along the route. After the army pulled back, the Brules and other Sioux bands, the Crows, the Northern Arapahos, and the Northern Cheyennes came in to negotiate. The next month, the peace commission returned and negotiated a treaty with the Lakotas, but again, Red Cloud did not appear. The Lakotas agreed to settle within the Great Sioux

reserve in Dakota Territory, a vast tract including all of what is present-day South Dakota west of the Missouri River. In November, Red Cloud finally came in and signed the agreement.

Despite the commission's efforts, peace did not reign in the Black Hills. Though Red Cloud never went to war again, other Native leaders did. Greedy miners eventually flooded the Sioux reserve in search of gold, leading to conflicts and the destruction of the Seventh Cavalry under Lt. Colonel George A. Custer at the 1876 Battle of Little Bighorn. After that the United States imposed a treaty upon the Sioux and forced them to a reservation.

The peace commission also took action in the Southwest. The Navajos had been defeated in war and forced to march the "Long Walk" to an internment camp called the Bosque Redondo in 1864. The commission sent Tappan and Sherman to the Bosque Redondo in 1868 to examine the miserable situation there, where perhaps as many as three thousand Navajos had died from disease and malnutrition. After hearing from the Indians and viewing the conditions, the two emissaries signed a treaty that allowed the Navajos to return to their homeland and live on a reservation established in the agreement.

Peace Commission Report

On January 7, 1868, the commission submitted an official report to Congress that blamed white settlement for Native-white conflict. The report outlined a solution of conquest "by kindness" but did not discuss the possibility of suspending settler or railroad expansion into Indian Territory.

The report included a brief history of the tensions on the Great Plains and noted the ferocity and effectiveness of Indian warfare. The commissioners were critical of federal Indian policy, reported a failure of diplomacy, and offered recommendations for peaceful negotiations. They reported that the government had failed to fulfill its treaty obligations and that many reservation agents were corrupt. The report proposed specific solutions to address previous failures of U.S. policy, including making the commissioner of Indian affairs a cabinet-level position. One major problem addressed was how exactly to offer peace to Indians. The commission called for the government to educate the Indians in the West, to provide them with training in agriculture, and to give them instruction on establishing courts and governments. The commission also recommended giving Christian mission societies and philanthropic societies a role in the civilization process.

The commission's activities initiated a formal policy of dealing with Natives on the Great Plains and laid the foundation for President Ulysses S. Grant's Peace Policy, which followed the reservation to "civilization" policy and ended hostilities through coercion, bribery, and military force.

See also *Black Hills; Bosque Redondo; Civilization Program; Fetterman Massacre; Grant, Ulysses S.; Fort Laramie (1868), Treaty of; Hancock, Winfield S.; Little Bighorn (1876), Battle of; Medicine Lodge Creek, Treaty of; Red Cloud; Reservations; Railroads; Sand Creek Massacre (1864); Sherman, William T.; Taylor, Nathaniel G.; Westward Migration.*

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BIBLIOGRAPHY

- Fritz, Henry. *Movement for Indian Assimilation, 1860–1890*. Philadelphia: University of Pennsylvania Press, 1973.
- Mardock, Robert Winston. *The Reformers and the American Indian*. Columbia: University of Missouri Press, 1971.
- Mattingly, Arthur H. "The Great Plains Peace Commission of 1867." *Journal of the West*, vol. 15 (1976): 23–37.
- Priest, Loring Benson. *Uncle Sam's Stepchildren: The Reformation of United States Indian Policy, 1865–1887*. New Brunswick, N.J.: Rutgers University Press, 1942.
- Prucha, Francis Paul. *American Indian Policy in Crisis: Christian Reformers and the Indians, 1865–1900*. Norman: University of Oklahoma Press, 1976.
- . *Documents of United States Indian Policy*. 3rd ed. Lincoln: University of Nebraska Press, 2000.
- Utey, Robert. *Frontier Regulars: The United States Army and the Indian, 1866–1891*. Lincoln: University of Nebraska Press, 1984.

Indian Police Forces

Although Indian police forces in the modern sense were created in the 1870s, Indian tribes had developed their own systems of law enforcement long before that point. The Cherokees, for example, brought with them the Cherokee Lighthorse, a formal organization of mounted police, when they were removed to the Indian Territory in the 1830s. Variations of the Lighthorse policed the Cherokee until Indian Territory was dissolved in 1907 when Oklahoma became a state. Long before Europeans arrived in their area, bison-hunting peoples such as the Lakotas had a system of law enforcement. Policing societies known as *akicitas* enforced tribal customs, regulated camp migrations, and closely monitored the buffalo hunts.

Policing, therefore, was not a foreign concept to Native Americans, and when the federal government funded police forces in the 1870s, most tribes readily accepted the institution. When the first Oglala Lakota police force was estab-

lished in 1879, for instance, former *akicitas* held officer positions and filled the unit's ranks.

The first Indian police forces were ad hoc in nature, appointed by various Indian agents without consent from the Office of Indian Affairs. During the 1860s, for example, the agent at the Pawnee Agency in Nebraska appointed influential band leaders to reduce the frequency of horse theft. Likewise, John P. Clum, an Indian agent working among the Apaches in the early 1870s, appointed Apache policemen. Allowing Indians to police themselves removed the military from reservation affairs and allowed the Apaches some measure of self-government. Using his Apache police force to keep intruders at bay, enforce an alcohol ban, and monitor the agency for potential troublemakers, Clum succeeded in bringing a small degree of order to the San Carlos Agency. Clum's success with the Apaches is generally accepted as the reason Congress began funding Indian police forces on all western reservations. On May 27, 1878, Congress allotted \$30,000 for the employment of five hundred Indian police officers. The number of officers at each reservation depended on the population. Pine Ridge, for example, with its sizeable population, was allotted fifty officers, while the much smaller Cheyenne River reservation had only nine officers. While some tribes resisted the introduction of Indian police forces, fearing that the forces would be used to further dispossess them of their traditional culture, by the 1890s Indian police were operating on almost every reservation.

Early Indian police forces performed a number of law enforcement duties. At Pine Ridge, for example, Oglala police monitored the agency border, arresting or driving away liquor peddlers, timber thieves, illegal traders, and stock rustlers. More controversially, Indian policemen were often responsible for enforcing the federal government's civilization programs. In this capacity they attempted to prohibit gambling, the drinking of intoxicating liquors, traditional dances, and polygamy. The actions of Indian police officers have sometimes been viewed unfavorably by historians, such as when members of the Standing Rock Indian police force killed Sitting Bull. However, many Indian policemen used their positions of power to maintain and protect traditional Indian culture. Moreover, policing themselves allowed the hated military to be removed from reservation administration.

The policing of reservations changed during the twentieth century. Law enforcement duties moved away from enforcing the federal civilization programs, and U.S. governmental control of many tribal police forces became more

limited. Alcohol-related crimes and crimes involving Indian youths began to demand more attention from Indian police. Most tribal police forces operate under the guidelines of the Indian Self-Determination and Education Assistance Act of 1975. These units operate largely free of federal control, and police officers are considered tribal employees. Other police forces are administered by the Bureau of Indian Affairs, and those police officers are federal employees.

In the early twenty-first century, more than two hundred police departments of varying sizes provide law enforcement on Indian reservations. These range from the handful of officers that police the tiny Grand Canyon Havasupai tribe of six hundred people to the enormous Navajo police force that employs hundreds of officers and provides law enforcement to a population of more than 250,000.

See also *Alcohol; Civilization Program; Clum, John P.; Indian Self-Determination and Education Assistance Act (1975); Law Enforcement in Indian Country; Reservations; Sitting Bull.*

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BIBLIOGRAPHY

- Ellis, Mark R. "Reservation Akicitas: The Pine Ridge Indian Police, 1879–1885." *South Dakota History*, vol. 29 (Fall 1999): 185–210.
- Hagan, William T. *Indian Police and Judges: Experiments in Acculturation and Control*. Lincoln: University of Nebraska Press, 1980.

Indian Preference Act (1934)

Preferring Indian employees over non-Indians on reservations and agencies was a federal government practice dating back to nineteenth century treaties between the United States and Indians, and Indian preference was a key component of twentieth century congressional legislation promoting tribal self-determination. Though it has come under periodic scrutiny by legislators who argue that it violates nondiscrimination laws, Indian preference has survived into the early twenty-first century.

Section 12 of the Indian Reorganization Act of 1934 authorized the secretary of the interior to bypass civil service laws in filling vacant positions in the Indian Office. This latitude was subsequently extended to filling positions in the Indian Health Service. The Indian Self Determination and Education Assistance Act of 1975 extended this provision to cover contracts with agencies serving designated Indian communities. Additionally, a 1982 amendment to the Civil Rights Act of 1964 provided an exception to the act's general nondiscrimination principles, allowing certain employ-

ers, under certain circumstances, to exercise an employment preference in favor of American Indians.

In *Morton v. Mancari* (1974), the U.S. Supreme Court upheld the Indian preference provision in the Indian Reorganization Act. In this case, subsequently affirmed in later decisions, the Court ruled that Indian preference violated neither the Civil Rights Act's nondiscrimination prohibitions nor the Due Process Clause of the Fifth Amendment. The Court held that the Indian preference was based on political status as a tribal member, and not on the impermissible grounds of race.

Persons claiming Indian preference must provide proof of membership in a federally recognized tribe, descent from a member of a federally recognized tribe, or Indian ancestry. A tribal officer or Bureau of Indian Affairs representative must endorse the applicant's claim.

See also *Interior, U.S. Department of the; Morton v. Mancari (1974); U.S. Supreme Court and Indian Policy, 1966–1977.*

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BIBLIOGRAPHY

- Indian Reorganization Act of 1934*, Public Law 73-383, 73rd Cong., 2d sess. (June 18, 1934).
- Morton v. Mancari*, 417 U.S. 535 (1974).
- Wilkins, David E. *American Indian Sovereignty and the U.S. Supreme Court: The Masking of Justice*. Austin: University of Texas Press, 1997.

Indian Removal Act (1830)

Congress's enactment of the Indian Removal Act of 1830 was the statutory culmination of a concerted effort by many American politicians, particularly from the South and West, to move the eastern Indian tribes west beyond the Mississippi River. Several factors motivated the federal policy, including an emerging pessimism about the ability of Indians to assimilate into the general population, but the most important factor was the desire for Indian lands. In particular, southerners desired Indian lands to farm cotton.

The removal bill authorized the president to negotiate land cession treaties with Indian tribes in which the United States would offer lands west of the Mississippi River in exchange for all of a tribe's territory in the East. The law also authorized the president to guarantee the Indians' title to their new lands in the West, to protect those lands from trespasses or attacks, to pay for improvements that Natives had built on lands they were surrendering, and to pay for the Indians' costs of relocation. Naively, Congress appropriated

only \$500,000 for the expected expenses of the removal policy.

Congress passed the bill by a very slim margin (28–19 in the Senate and 102–97 in the House) after a long and contentious debate. Generally speaking, congressmen in the South and West voted for the bill while those in New England voted against it.

The act did not authorize the president to force the tribes to cede land, but the government did use military force, the threat of force, coercion, and dishonest acts to compel removal. For example, President Andrew Jackson's administration negotiated the Treaty of Dancing Rabbit Creek with the Choctaw Nation in September of 1830. Treaty negotiators threatened tribes with refusing to prevent settlers from encroaching on their lands and promised that the tribe would have to remove or subject themselves to the laws of the state in which they lived. In another case, in 1832 federal negotiators coerced a removal treaty out of the Seminoles. After the Seminoles changed their minds, in 1835 the United States sent troops into Florida to round up and remove the Indians, setting off a long war with the tribe that culminated in the surrender of most of the Seminoles and their removal to the Indian Territory in 1842–1843.

In 1832 the Supreme Court decided *Worcester v. Georgia*, a ruling that recognized the sovereignty of the Cherokee Nation and held that Georgia's trespasses onto Cherokee territory were illegal and unconstitutional. The State of Georgia and Jackson refused to recognize the decision, and the Cherokees were ultimately forced to relocate to the Indian Territory (in what is present-day Oklahoma). In 1835 two competing delegations arrived in Washington, D.C.—one headed by Principal Chief John Ross, who was refusing to accept a removal treaty, and the other by dissident leader John Ridge, who wanted the Cherokees to emigrate. In December the Jackson administration signed the Treaty of New Echota with Ridge's group, which represented a small minority of the overall Cherokee population. Despite a vigorous debate as to the validity of the negotiations, the Senate ratified the treaty by one vote in March 1836. Over sixteen thousand of the remaining Cherokees petitioned Congress to stop the removal, but Congress refused. In 1838 President Martin Van Buren sent the U.S. Army to Cherokee territory and directed it to place the Cherokees into internment camps and prepare them for removal. Over the fall and winter of 1838–1839, the Cherokees marched what became known as the Trail of Tears to the northeastern portion of the Indian Territory. Scholars estimate that at least four

thousand Cherokees died as a consequence of their roundup and removal.

The United States also used the Indian Removal Act to relocate almost all of the tribal nations in the northern states to territories west of the Mississippi. By 1843 almost all of the tribes in the eastern United States had been relocated to the West.

See also *Jackson, Andrew; Cass, Lewis; New Echota (1835), Treaty of; Removal; Ross, John; Second Seminole War (1835–1842); Trail of Tears; Worcester v. Georgia (1832).*

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BIBLIOGRAPHY

- Cave, Alfred. "Abuse of Power: Andrew Jackson and the Indian Removal Act of 1830." *The Historian*, vol. 65 (December 2003): 1330–1353.
- Foreman, Grant. *Indian Removal: The Emigration of the Five Civilized Tribes of Indians*. Norman: University of Oklahoma Press, 1932.
- Garrison, Tim Alan. *The Legal Ideology of Removal: The Southern Judiciary and the Sovereignty of Native American Nations*. Athens: University of Georgia Press, 2002.
- Perdue, Theda, and Michael D. Green. *The Cherokee Nation and the Trail of Tears*. New York: Viking, 2007.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Wallace, Anthony F. C. *The Long, Bitter Trail: Andrew Jackson and the Indians*. New York: Farrar, Straus and Giroux, 1993.
- Worcester v. Georgia*, 31 U.S. 515 (1832).

Indian Reorganization Act (1934)

The Indian Reorganization Act of 1934 (also known as the IRA or the Wheeler-Howard Act) was the signature piece of Office of Indian Affairs (OIA) commissioner John Collier's "Indian New Deal." The subject of much controversy despite being less sweeping than originally intended, it still ranks among the most significant pieces of Indian-related legislation passed during the twentieth century.

The IRA owed its origins to a sharp critique of the disastrous allotment policy that developed during the 1920s, fallout from the 1928 *Meriam Report*, the New Deal's creative momentum, and the vision and energy of John Collier himself. Though a relative newcomer to Indian causes, Collier had earned a national reputation in the fight against the notorious Bursum Bill and advocated for the restoration of Native tribalism in the public arena and through his American Indian Defense Association.

Soon after becoming commissioner in 1933, Collier moved aggressively to address reservation poverty and sub-

standard Indian education and to redirect policy away from forced assimilation and toward an appreciation for Indian cultural values. But lasting reform rested with the communities themselves, and so in 1934 he submitted to Congress a comprehensive plan to remake tribal governing bodies.

Drafted by the commissioner and talented attorneys Felix Cohen and Nathan Margold, the “Collier bill” focused on four key areas. Title I (government) authorized recognized tribes to establish governments with authority over legal affairs, tribal lands and resources, personnel, and the administration of federal services. Title II (education) promised to place Indians in the OIA, provide for enhanced educational opportunities, and support curricula incorporating Indian culture and history. Title III (land) abolished allotment and committed the OIA to reversing its effects by restoring the tribal domain, either through purchase or by consolidating individual allotments. Title IV (law) addressed the tangled legal and jurisdictional conditions by creating a national Court of Indian Affairs with jurisdiction over reservation crimes, the status and disposition of tribal lands, and civil cases where at least one of the parties was Native American.

Because Collier’s bill represented a comprehensive restructuring of Indian policy, it generated considerable opposition. Longtime advocates of forced assimilation, like the Indian Rights Association, denounced Collier for what they saw as robbing Native people of the opportunity to participate completely and meaningfully in American society. Western politicians and their allies in business and industry feared that restoration of a tribal land base (held in trust by the federal government) would prevent investment and development. Many Christian leaders objected to renewed support for traditional cultural practices, and other opponents linked Collier’s objectives with the collectivism supposedly espoused by advocates of the New Deal in general.

Native opposition surfaced as well. Some Indians wondered whether tribal governments could manage reservation resources competently, and others felt directly threatened by provisions for compulsory consolidations of individual land allotments. Many had adjusted to the current policies and were uneasy about yet another change in direction. Native American political conservatives, most famously Creek businessman Joseph Bruner, lambasted Collier for imposing communism when, he believed, Indians really needed a strong dose of individualism.

Collier responded by organizing ten regional congresses across Indian Country in the spring and summer of 1934. A virtually unprecedented move—seeking Indian input on

pending legislation—the meetings largely failed to generate the hoped-for grassroots support. Native attendees grilled Collier and ultimately secured a promise to make land consolidations voluntary. This concession failed to convince those suspicious of federal bureaucrats bearing gifts, however, and many also remained disappointed that the proposal neglected specific local concerns like water rights, unfulfilled treaty obligations, and relations with white neighbors.

A frustrated Collier turned to powers in Washington to save his proposal. Senator Burton K. Wheeler, chair of the Senate Subcommittee on Indian Affairs, cut Collier’s bill from forty-eight to just four pages, effectively stripping it of its most revolutionary components. Franklin Delano Roosevelt signed the truncated Indian Reorganization Act, or Wheeler-Howard Act, on June 18, 1934.

The provisions for firm commitment to Indian self-government, the Court of Indian Affairs, and tribal authority to acquire allotments and oversee OIA budgets and personnel were all gone from the revised bill. The act excluded Native communities in Oklahoma and Alaska until 1936 when specific legislation extended most, though not all, provisions to those groups. Despite its diluted nature, the resulting act still ended allotment and provided for tribal elections to accept or reject its provisions and to organize governments. It established a revolving fund to assist organized tribes with economic development projects; authorized a process for restoring unallotted lands to the tribal domain; exempted Indians from civil service regulations; and created a loan program for Native students seeking vocational, high school, or college education.

Though securing tribal consent through referenda was a significant step in the direction of self-determination, the process by which this took place proved quite controversial. To defeat the IRA, 50 percent of all eligible voters had to cast negative votes, whether they showed up at polls or not. To many, the process seemed rigged in favor of passage, a perception that only added to suspicion about Collier, the Indian Office, and the act itself.

More than two-thirds of the 258 tribes holding referenda approved the IRA, and of those 92 wrote new constitutions while 72 drafted charters of incorporation. But just 40 percent of total votes endorsed the IRA, and several groups, from the Crows in Montana to Iroquois nations in New York, rejected Collier’s masterpiece by large margins. Many preferred to retain existing political institutions, which they saw as authentic expressions of self-government. For the Navajo Nation, largest in population and land area, support

for an existing business council form of government and anger over the Indian Office's forced stock reduction policy irretrievably damaged Collier's reputation, and the IRA went down to defeat by a vote of 7,992 to 7,608.

Problems did not end there. Reorganized tribes found that the creation of new governmental structures reopened social and political divides inside communities. On the Pine Ridge reservation, the political contest pitting "Old Dealers" against "New Dealers" paralyzed tribal politics for more than a generation and is blamed for the political turmoil that overtook those communities during the 1970s. Other tribes chafed under a highly circumscribed form of self-government in which decisions made by tribal councils still were subject to approval by the secretary of the interior. By 1938 Collier and his signature act faced devastating attacks in the halls of government.

In the end, the effects of the act were decidedly mixed. While some tribes found the results disappointing, even destructive, others, like the Blackfeet in Montana, used the act to invigorate governing institutions and develop reservation resources. Some created governments, consolidated a tribal land base, and prepared for extensions of self-government that came later. Still others used the revolving fund to build up livestock herds. And many Natives benefited from new educational opportunities. That the IRA failed to produce fully self-governing tribal nations is undeniable. But wedged as it was between the eras of allotment and termination, it is also clear that the prospect of a more fully realized tribal sovereignty likely was unacceptable to most policy makers of the period.

See also *American Indian Defense Association*; *Bursum Bill*; *Cohen, Felix S.*; *Collier, John*; *Indian New Deal*; *Meriam Report*; *Wheeler, Burton K.*

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BIBLIOGRAPHY

- Biolsi, Thomas. *Organizing the Lakota: The Political Economy of the New Deal on the Pine Ridge and Rosebud Reservations*. Tucson: University of Arizona Press, 1992.
- Deloria, Vine, Jr. *The Indian Reorganization Act: Congresses and Bills*. Norman: University of Oklahoma Press, 2002.
- Deloria, Vine, Jr., and Clifford Lytle. *The Nations Within: The Past and Future of American Indian Sovereignty*. New York: Pantheon, 1984.
- Hauptman, Laurence. *The Iroquois and the New Deal*. Syracuse, N.Y.: Syracuse University Press, 1981.
- Kersey, Harry A., Jr. *The Florida Seminoles and the New Deal, 1933–1942*. Boca Raton: Florida Atlantic University Press, 1989.
- Philp, Kenneth R. *John Collier's Crusade for Indian Reform, 1920–1954*. Tucson: University of Arizona Press, 1977.
- Rosier, Paul. *Rebirth of the Blackfeet Nation, 1912–1954*. Lincoln: University of Nebraska Press, 2001.
- Rusco, Elmer R. *A Fateful Time: The Background and Legislative History of the Indian Reorganization Act*. Reno: University of Nevada Press, 2000.
- Taylor, Graham D. *The Indian New Deal and American Indian Tribalism: The Administration of the Indian Reorganization Act, 1934–45*. Lincoln: University of Nebraska Press, 1980.

Indian Rights Association (IRA)

The Indian Rights Association (IRA) was the first national social reform organization established to advocate for assimilation of Native peoples. It was founded at the end of the nineteenth century when public support for Indian segregation shifted to assimilation. The IRA was organized in 1882 in Philadelphia in the home of John Welsh, a wealthy businessman and social reformer whose brother was the U.S. Board of Indian Commissioners' first chairman; John Welsh's son Herbert and Henry S. Pancoast founded the IRA. During the organization's early years, Herbert Welsh, the first executive secretary; Lawrence Lindley; and Matthew Sniffen operated the Philadelphia office. In 1884 Welsh and Pancoast opened a Washington, D.C., office where Charles Painter and Samuel Brosius worked as investigators and lobbyists.

IRA members believed that only absorption into mainstream American life could reduce Indians' inequality and poverty, and its members believed they worked for Native peoples' best interests. The organization's assimilationist policy included teaching Indians English and Christianity, acceptance of private landownership and United States legal institutions, and reduction of federal government support. IRA objectives were to secure education, economic opportunities, and civil rights for Indians. Key strategies were to lobby legislators and to work with the secretary of the interior and the commissioner of Indian affairs to develop federal policy. The IRA also funded speaking tours for Native rights activists and functioned as a watchdog, observing the behavior of Indian Office agents and investigating reservation conditions and healthcare. From 1946 to 1985 the organization published *Indian Truth*, a newsletter that educated the public about Native issues.

The IRA was most influential during its first two decades. It lobbied for the Dawes General Allotment Act of 1887, participated in drafting significant legislation, and publicized violations of Native rights. In 1905 Francis Leupp, an IRA officer, became commissioner of Indian affairs. John Collier's appointment in 1933 as commissioner lessened the

organization's importance as Collier shifted Indian policy away from assimilation. In its later years the IRA focused on conditions in Indian communities; served as an information clearinghouse; monitored government legislation, policies, and agencies; and sponsored programs to educate the public regarding Indian cultures. By 1994 the IRA had disbanded.

The first and longest-lived Indian advocacy group of the late nineteenth century, the IRA both benefited and injured Native interests. Although some Indians gained support from the IRA in their fight for equality, the organization was a primarily non-Indian group and many argue that its assimilationist objective was harmful to Native communities. Its emphasis on teaching English and Christianity and the adoption of other Anglo-European institutions eroded Indian cultures.

See also *Assimilation and Acculturation; General Allotment Act (Dawes Act) of 1887; Collier, John; Indian Rights Movements; Leupp, Francis E.; Welsh, Herbert.*

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BIBLIOGRAPHY

- Blend, Benay. "The Indian Rights Association, the Allotment Policy, and the Five Civilized Tribes." *American Indian Quarterly*, vol. 7 (Spring 1983): 67–80.
- Deloria, Vine, Jr. "The Indian Rights Association." In *The Aggressions of Civilization: Federal Indian Policy since the 1880s*, edited by Sandra L. Cadwalader and Vine Deloria Jr., 3–18. Philadelphia: Temple University Press, 1984.
- Ericson, Jack T. *Indian Rights Association Papers: A Guide to the Microfilm Edition, 1884–1973*. Glen Rock, N.J.: Microfilming Corporation of America, 1975.
- Hagan, William T. *The Indian Rights Association: The Herbert Welsh Years, 1882–1904*. Tucson: University of Arizona Press, 1985.
- Prucha, Francis Paul. *American Indian Policy in Crisis: Reformers and the Indian, 1865–1900*. Norman: University of Oklahoma Press, 1976.

Indian Rights Movements

Concern over Indian rights developed in the period of European colonization of the New World. As early as 1511, Dominican friar Antonio de Montesinos protested the mistreatment of Indians under the Spanish *encomienda* system. Shortly thereafter, Bartomé de Las Casas, Dominican bishop of the Chiapas, began his lifelong advocacy on the Indians' behalf. In the seventeenth century, confrontations between the newcomers and Native Americans in the British colonies led Anglican and Puritan clerics to join the Quakers in demanding fair treatment of Indians and respect for their landownership, while also urging their conversion

to Christianity. Churchmen and women voiced similar concerns throughout the next century, but bloody conflicts between Indians and colonials eroded sympathy for the cause.

Early reformers such as Roger Williams of Rhode Island emphasized the Indians' "natural rights" to life, liberty, and property, and their right and ability to "progress" from a state of "savagery" to Euro-American-style "civilization." Those emphases, and the forceful promotion of Christianity that accompanied them, persisted into the twentieth century. While colonial reformers based their arguments on Christian theology, later reformers increasingly emphasized what they believed were pragmatic considerations that in today's light appear condescending. The reformers all believed they were acting in the Indians' best interests, but their agendas rarely reflected the Indians' wishes.

The New Republic and the Removal Era

The new American republic's idealistic self-image influenced Indian policymaking. Henry Knox (1789–1795), the first U.S. secretary of war, expressed concern over the human and financial costs of military campaigns against Indians and urged President George Washington (1789–1797) to negotiate with the Indians. In 1787 Congress passed the Northwest Ordinance, promising that the United States would treat Indians with the "utmost good faith." With the stated intent to protect Indian property, rights, and liberty, the legislation reflected the reformers' humanitarian ideals and the pragmatic concerns of men like Knox.

Native Americans defended their rights during the late eighteenth and early nineteenth centuries. Some worked through official channels with the U.S. government; others, like Tecumseh (Shawnee), worked within the tribes. Tecumseh refused to recognize the 1795 and 1809 Fort Greenville treaties, which together ceded 33 million acres of Indian land. He believed no individual could sell the land because it belonged to all Indians. Aided by Tenskwatawa (The Prophet), his brother who preached a return to traditional ways and avoidance of whites, Tecumseh sought to unify the tribes. His aspirations for pan-tribal political mobilization and his brother's revitalization movement were quashed when Indiana Territory governor William Henry Harrison's troops defeated the Prophet in the Battle of Tippecanoe (November 7, 1811), and U.S. troops killed Tecumseh at the Battle of the Thames (October 5, 1813). A number of other prophets besides Tenskwatawa, including Neolin, Handsome Lake, and Wovoka, worked to advance

Native interests through the development of spiritual movements in the nineteenth century.

The United States' policy of removing the eastern tribes to land west of the Mississippi also produced movements that supported Indian rights. In 1820 and 1821 President James Monroe (1817–1825) sent Congregationalist minister Jedidiah Morse to visit the tribes and offer guidance on whether to proceed with a general removal. Morse concluded that Indians should have the same rights as citizens and freemen and guardedly supported their removal across the Mississippi. Other Congregationalists, among them the American Board of Commissioners for Foreign Missions, provided moral and financial support to the Cherokee Nation in its opposition to removal. After the eastern tribes were removed, white reformers clamored for a more humane approach to Indian affairs; however, by 1850 most of them had shifted their energies to the abolition movement.

The Reservation Era

As white settlers moved across the Mississippi into the West after the Civil War, they frequently encroached upon or crossed Indian tribes' territory, leading to increased confrontations with Indian tribes. Peace commissioners sent to negotiate treaties with the Plains tribes in 1867 returned to criticize Congress and humanitarian reformers for ignoring the Indians' suffering. They argued that civilizing the Indians and protecting their land rights would end the warfare. Their criticisms prompted abolitionists such as Lydia Maria Child and Wendell Phillips to join the Indian rights movement. In 1869 Peter Cooper, Henry Ward Beecher, and others formed the United States Indian Commission to pressure Congress to reform the nation's Indian policy.

After becoming president, Ulysses S. Grant (1869–1877) implemented a new policy. Following consultations with Quaker representatives, he charged Christian church leaders and a nonpartisan Board of Indian Commissioners with overseeing Indian affairs. Reflecting the social evolutionary thinking of the day, Grant's Peace (or Quaker) Policy sought to "civilize" the Indians by providing education and religious instruction to prepare them for citizenship and assimilation into American society. Until then, they were to remain on reservations under federal supervision. Many Indians resisted reservation confinement and the cultural changes demanded by the civilization program.

Attempts to force compliance led to conflict. In many cases, Native activism was violent and many tribes waged war against the United States in the late nineteenth century

to preserve their territory and way of life. The Battle of Little Bighorn (June 25, 1876), for example, was a united Native response to a military campaign aimed at returning Lakotas and Cheyennes to their reservations. The Meeker killings in September 1879 in Colorado resulted from attempts by Nathan Meeker, agent of the White River Ute Reservation, to force the Utes to take up farming. Native resistance leaders across North America—including Black Hawk, Crazy Horse, Sitting Bull, Little Crow, Osceola, Little Turtle, and Geronimo—conducted military campaigns to protect their people's rights and territory.

Many white Americans who considered themselves activists for Indian rights supported Grant's Peace Policy but opposed the U.S. Army's role in its implementation. They also condemned the relocation of tribes to reservations against their will; this position was made more compelling by the widely reported efforts by some Indian leaders, including Chief Joseph (Nez Perce) in 1877 and Dull Knife (Cheyenne) in 1879, to resist the relocation of their people to reservations. In 1879 Ponca Indians led by Standing Bear tried to leave their reservation in the Indian Territory to return to their Nebraska homeland to bury Standing Bear's son. U.S. troops under Gen. George Crook stopped them and arrested Standing Bear. Aided by volunteer attorneys, Standing Bear successfully pursued the Ponca cause through the courts (*Standing Bear v. Crook*). Afterward, Standing Bear toured the country, speaking on Indian rights at gatherings organized by Wendell Phillips, the abolitionist turned Indian rights advocate. The Ponca case drew Helen Hunt Jackson into the Indian rights movement as well. Her criticism of Secretary of the Interior Carl Schurz (1877–1881) and her book *A Century of Dishonor* (1881), which condemned the government's Indian policy, attracted widespread public attention to the cause. Soon a new cohort of reformers emerged to express concern for the Indians' material and intellectual advancement.

Allotment Era

By 1880 the Board of Indian Commissioners was convinced the solution to "the Indian problem" lay in the breakup of the tribal land base. Most Indian rights activists agreed that individual landownership would bring the Indians into the political and economic mainstream. New Indian rights groups emerged after the Standing Bear case, many of them headed by members of the Board of Indian Commissioners. The Women's National Indian Association was founded in 1879 to influence public opinion and pressure lawmakers for

reform. It protested treaty violations; promoted education, missionary work, and social welfare; and supported the allotment of tribal lands. The Indian Rights Association, launched in 1882 by Herbert S. Welsh and Henry Pancoast, led the calls for reform and encouraged social change for Indians through education and allotment, the distribution of small parcels of tribal communal lands to individuals. The association also handled legal cases for American Indians, helped members of Congress draft Indian-related legislation, and monitored the administration of Indian affairs.

The Lake Mohonk Conference of the Friends of the Indian, first held in 1883, brought members of the Indian Rights Association and other groups together to campaign for allotment, assimilation, and the detribalization of Indian societies. In response to the conference's lobbying, Congress in 1887 passed the General Allotment Act (also known as the Dawes Act), which provided for the allotment and distribution of tribal lands to Native individuals and granted U.S. citizenship for those Natives that accepted allotments. It was a major victory for the "friends of the Indians," who believed that tribalism, communal landownership, and corrupt officials inhibited Native progress toward acculturation and assimilation.

There were reformers who disagreed with the Indian Rights Association's stance. The National Indian Defense Association (NIDA), founded in 1885 by Alfred B. Meacham and Thomas A. Brand, opposed assimilation, detribalization, and allotment. NIDA thought the acculturation process should move at a more gradual pace and wanted Indians to have a voice in whether they accepted aspects of the proposed reforms. Its members believed that immediate allotment would result in the Indians' loss of their land base, and that detribalization would inhibit a spirit of community that encouraged widespread movement toward acculturation.

Despite these differences, most white Indian rights campaigners during this era saw education as the key to improving the Indians' situation. They differed only on the degree and form to which American-style education would be imposed on Native Americans.

In hindsight, it is clear that these reforms resulted in the further impoverishment and demoralization of many Indians. In 1911 a group of acculturated Indians, including Dr. Charles Eastman (Lakota) and Rev. Sherman Coolidge (Arapaho) formed the Society of American Indians, the first Native American rights group. Among its members were Dr. Carlos Montezuma (Yavapai), Rev. Henry Roe Cloud (Winnebago), and anthropologist Arthur C. Parker (Seneca).

They argued that Native people should have a say in policies that affected their destiny. The society developed a sense of identity among Native intellectuals that transcended tribal boundaries (pan-Indianism). Critical of mainstream society, many of the members advocated self-determination for tribes and sought to improve Native life by reforming government policy and defending Indian rights. Internal differences, particularly over the role of the Office of Indian Affairs (OIA) and the legality of the sacramental use of peyote, eventually divided and weakened the group. However, the society's ideas about reform, the notion of pan-Indian activism, and its members' emerging confidence that Indian intellectuals could influence Native life and U.S. policy left a legacy that Native activists would build upon in the twentieth century.

Indian New Deal

The 1922 Bursum Bill, a proposal in Congress that threatened to open Pueblo lands to non-Indians, brought a new generation of non-Indian activists to the assistance of Native people. The Eastern Association on Indian Affairs and the affiliated New Mexico Association on Indian Affairs organized that year to fight those threats. In 1923 John Collier, motivated by the Pueblo crisis, started the American Indian Defense Association to protect the religious freedoms, culture, and tribal property of Native Americans. These new reform groups condemned the General Allotment Act and, influenced by the cultural pluralist sentiment of the interwar years, fought for the preservation of Native cultures. The old guard, non-Indian groups that pushed for rapid allotment and assimilation remained active, but Collier's allies began to accumulate influence in Congress.

Native American activists also formed new groups during this period, including two offshoots of the Society of American Indians: the American Indian Association, founded in 1922 to promote Indian political participation, and the National Council of American Indians, founded in 1926 to push for the creation of a court to examine Indian land claims and other reforms. Additional Native American groups formed around the nation to bring about change and reform on local issues.

In 1923, faced with mounting criticism, Secretary of the Interior Hubert Work (1923–1928) convened a Committee of One Hundred to advise him on Indian affairs. The committee, which included reformers from across the spectrum of Indian rights organizations, supported the 1924 Indian Citizenship Act, which made every Indian born in the

United States an American citizen. The committee also prompted a study of reservation conditions, which was published in 1928. The *Meriam Report*, named for committee chair, Lewis Meriam, described deplorable conditions on the reservations and recommended initiatives to enable Indians to integrate into the majority society or live separately in improved conditions. The Indian Rights Association endorsed the report. The Lake Mohonk Conference reconvened to consider it and issued its own recommendations, including a call to establish an Indian court of claims.

Specific reforms got underway during President Herbert Hoover's (1929–1933) administration but the pace quickened under President Franklin D. Roosevelt's (1933–1945) Indian New Deal, with Collier serving as commissioner of Indian affairs. The Indian New Deal was formulated in consultation with Indian rights groups, including two Native American groups: the Council of American Indians and the Ojibwa Council. At its heart was the 1934 Indian Reorganization Act (IRA), which ended allotment and provided tribes with the capacity to develop new governments based on the municipal corporate model. The IRA was a hard-won compromise between the old line assimilationists and the new guard self-determinationists. As with most compromises, all sides found fault with the new law. The Indian Rights Association felt there had been inadequate input from the tribes but otherwise generally approved it. The Indian Nation Confederacy of Oklahoma feared that it would forestall Native progress toward economic self-sufficiency and assimilation, while the Mission Indian Federation of California believed the creation of tribal courts would erode Natives' rights as U.S. citizens. For the rest of the decade the Indian rights movement focused on the IRA's implementation and administration. Today, many critics of the legislation argue that the IRA was another form of federal paternalism that imposed Western-style governance on non-Western traditional societies.

Termination

Native American participation in World War II produced leaders more skilled in dealing with the dominant society than ever before. The National Congress of American Indians (NCAI) met for the first time in 1944, with anthropologist D'Arcy McNickle (Flathead) playing a leading role. More tribally oriented than the Society of American Indians, the NCAI pursued a far-reaching agenda that included public relations, Indian rights advocacy, preservation of Indian culture, and social welfare. It set up a legal aid

and service bureau in Washington, D.C., and joined other reformers in calling for an Indian claims commission. Congress, interested in cost-cutting and bolstering national unity, established in 1946 such a commission to resolve outstanding claims, thus paving the way for the termination of federal responsibility for the tribes.

Some Native Americans saw termination as a way to restore tribal control but most recognized it as a threat to tribal existence. The NCAI opposed termination and called instead for greater self-determination for all tribes. Despite widespread opposition from tribal members and Indian rights campaigners, Congress passed House Concurrent Resolution 108 in 1953. It authorized termination of tribes deemed capable of managing their own affairs. Public Law 208 furthered that agenda by extending state civil and criminal jurisdiction over reservations in several states. In 1954 the NCAI held a conference to consider the threat. It called for reservations to continue under federal supervision and adopted a Declaration of Indian Rights. Indian rights campaigners slowed the pace of termination, but by the end of the decade six tribes had been terminated, including the Klamath in Oregon and the Menominee in Wisconsin. Withdrawal of federal support had a devastating impact on the citizens of those tribes, leaving large numbers destitute and forcing many to migrate to urban areas for work.

Red Power Movement and Beyond

Many of the people who rose to prominence in the 1960s Red Power movement had gained valuable experience in workshops and organizations sponsored by the New Mexico Association on Indian Affairs, the University of Chicago's anthropology department, and American Indian Development, Inc., an Indian service organization headed by McNickle. This new generation of activists adopted strategies and rhetoric from the civil rights movement but found its call for equality and integration incompatible with their own vision of a separate Indian identity and sovereign status for their tribal governments. They recognized education as essential to a more secure future, which led to the formation of the United Scholarship Service in 1960 and the National Indian Youth Council in 1961. The young activists also participated in the 1961 American Indian Chicago Conference, which generated a Declaration of Indian Purpose that set the agenda for sweeping reforms. The declaration emphasized that Native people wanted to preserve their own cultures and determine their own living conditions and destiny. It also called on the United States to respect and abide by

existing treaties and to provide greater assistance in education, employment, industrial development, and social welfare programs.

While the National Congress of American Indians worked with President John F. Kennedy's (1961–1963) administration to formulate policy geared toward reservation economic development, the urban and campus-based National Indian Youth Council was becoming more militant, staging its first fish-ins to highlight treaty rights issues. In an attempt to influence President Lyndon Johnson's (1963–1969) Indian policy, the Council of Indian Affairs organized the American Indian Capital Conference on Poverty in 1964. Among the priorities it set were improved housing, education, healthcare, and employment. These became enduring priorities for reservations and, to a lesser extent, urban Indian communities. When Vine Deloria Jr. (Standing Rock Sioux) took over as executive director of the NCAI that year, he began campaigning for improved legal services. He furthered that agenda by founding the Institute for the Development of Indian Law in the early 1970s. Soon thereafter, the Native American Rights Fund, headed by John Echohawk (Pawnee), and the American Indian Law Center at the University of New Mexico, headed by Philip Deloria (Standing Rock Sioux), were formed, thus providing institutions that could provide legal representation to those asserting Native causes.

As grant monies and institutional support became more readily available, new Indian groups emerged, contributing to the splintering of the Indian rights movement that was already underway. In an attempt to bridge the widening divide between urban and reservation Indians, Vine Deloria Jr. organized a Committee for Urban Indian Consultation Conference in 1968. Later that year, dissatisfied delegates formed American Indians–United, a confederation of urban Indians. Neither effort achieved lasting unity.

Differences over the 1968 Poor People's March on Washington drove moderate and militant Indians further apart. Members of the United Scholarship Service and National Indian Youth Council joined the march. Clyde Warrior (Ponca), head of the latter group, refused to participate in the march, however, and the NCAI withheld its endorsement because the march lacked a legislative objective and violence seemed likely. Native American militancy entered a new phase in 1968 with the formation of the American Indian Movement (AIM) and United Native Americans, Inc. Both groups achieved notoriety for their role in the occupation of Alcatraz Island. In the years that

followed, they and other militant groups staged protests across the country to highlight treaty violations, racism, discrimination in education and employment, and intellectual property rights issues. Meanwhile, groups like the National Indian Youth Council and Survival of American Indians Association focused on social welfare, self-determination, and other issues of concern to Indian communities. In 1971 the National Tribal Chairman's Association formed to counterbalance the increasing militancy and promote reservation community interests.

Two incidents attracted nationwide attention in the early 1970s. The first was the 1972 Trail of Broken Treaties caravan, which traveled to Washington, D.C., to present federal officials with a twenty-point reform program and ended up occupying and ransacking the BIA national offices. The second was the violent standoff at Wounded Knee in 1973 between AIM (led by Russell Means, Dennis Banks, and others) and Pine Ridge tribal members on one side and heavily armed federal agents and Pine Ridge tribal chair Dick Wilson on the other. Some within the Indian rights movement supported the militants' actions, while others condemned them as undermining reservation interests.

A shootout on the Pine Ridge Reservation in 1975 left two FBI agents and an AIM member dead. AIM activist Leonard Peltier was eventually sent to prison for his alleged role in the deaths of the agents. His incarceration remains a rallying point for many Indian and non-Indian activists. Three years later, activists staged the Longest Walk from San Francisco to Washington, D.C., to draw attention to Indian treaty rights. Then, in 1981, they began a six-year occupation of the Black Hills at Camp Yellow Thunder. Their objective of winning the return of the sacred Black Hills to tribal hands has not been realized.

Since the waning of the Red Power movement in the 1970s, Indian rights activists have continued to stage protests, but their most significant victories have been won via increasingly sophisticated legal challenges launched by tribes and individual Indians. Their successes include the 1973 Menominee Restoration Act, the 1978 American Indian Religious Freedom Act, and the 1990 Native American Graves Protection and Repatriation Act. The International Indian Treaty Council, formed by AIM in 1974, has expanded the Indian rights movement into the international arena by forging links with indigenous people around the world and winning recognition by the United Nations as a non-governmental organization with consultative status to the Economic and Social Council. It is the first organization of

its kind to be so recognized. Today, an abundance of Native organizations across the United States work to promote individual and collective interests.

See also *Alcatraz Island, Seizure of; American Indian Chicago Conference; American Indian Defense Association; American Indian Law Center; American Indian Movement; American Indian Religious Freedom Act; Assimilation and Acculturation; Banks, Dennis; Black Hawk; Black Hills; Board of Indian Commissioners; Bursum Bill; Citizenship: United States and State; Civilization Program; Cloud, Henry Roe; Collier, John; Cooper, Peter; Crazy Horse; Deloria Family; Deloria, Vine, Jr.; Dull Knife; Eastman, Charles; Echohawk, John; General Allotment Act (Dawes Act) of 1887; Geronimo; Grant, Ulysses S.; Greenville, Treaty of; Hoover, Herbert; Indian Claims Commission Act; Indian New Deal; Indian Reorganization Act; Indian Rights Association; Jackson, Helen Hunt; Joseph, Chief; Knox, Henry; Lake Mohonk Conferences; Little Bighorn (1876), Battle of; Little Crow; Little Turtle; McNickle, D'Arcy; Meacham, Alfred B.; Means, Russell; Meriam Report; Monroe, James; Mission Indians; Missions and Missionaries; Montezuma, Carlos; National Congress of American Indians; National Indian Defense Association; National Indian Youth Council; National Tribal Chairmen's Association; Native American Graves Protection and Repatriation Act; Native American Rights Fund; Northwest Ordinance; Peltier, Leonard; Phillips, Wendell; Pontiac's Rebellion; Proclamation of 1763; Public Law 208; Religious Organizations and Indian Policy; Removal; Roosevelt, Franklin D.; Self-Determination; Sitting Bull; Society of American Indians; Tecumseh; Tenskwatawa; Termination and Restoration; Trail of Broken Treaties; United Nations; Warrior, Clyde; Washington, George; Welsh, Herbert; Williams, Roger; Women's National Indian Association; Wounded Knee (1973), Occupation of.*

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BIBLIOGRAPHY

- Cornell, Stephen. *The Return of the Native: American Indian Political Resurgence*. New York: Oxford University Press, 1988.
- Deloria, Vine, Jr. *Behind the Trail of Broken Treaties: An Indian Declaration of Independence*. 2nd ed. Austin: University of Texas Press, 1985.
- Deloria, Vine, Jr., and Clifford M. Lytle. *The Nations Within: The Past and Future of American Indian Sovereignty*. New York: Pantheon Books, 1984.
- Dippie, Brian W. *The Vanishing American: White Attitudes and U.S. Indian Policy*. Middletown, Conn.: Wesleyan University Press, 1982.
- Dowd, Gregory Evans. *A Spirited Resistance: The North American Indian Struggle for Unity, 1745–1815*. Baltimore: Johns Hopkins University Press, 1992.
- Hagan, William T. *The Indian Rights Association: The Herbert Welsh Years, 1882–1904*. Tucson: University of Arizona Press, 1985.
- Hertzberg, Hazel. *The Search for a Pan-Indian Identity: Modern Pan-Indian Movements*. Syracuse, N.Y.: Syracuse University Press, 1971.
- Hoxie, Frederick E. *A Final Promise: The Campaign to Assimilate the Indians, 1880–1920*. New York: Cambridge University Press, 1984.
- Kelly, Lawrence C. *The Assault on Assimilation: John Collier and the Origins of Indian Policy Reform*. Albuquerque: University of New Mexico Press, 1983.

- Lemont, Eric D. *American Indian Constitutional Reform and the Rebuilding of Native Nations*. Austin: University of Texas Press, 2006.
- Maddox, Lucy. *Citizen Indians: Native American Intellectuals, Race, and Reform*. Ithaca, N.Y.: Cornell University Press, 2006.
- Mardock, Robert Winston. *The Reformers and the American Indian*. Columbia: University of Missouri Press, 1971.
- Mathes, Valerie Sherer, and Richard Lowitt. *The Standing Bear Controversy: Prelude to Indian Reform*. Chicago: University of Illinois Press, 2003.
- Ortiz, Roxanne Dunbar. *The Indians of America: Human Rights and Self-Determination*. London: Zed Books, 1984.
- Peroff, Nicholas C. *Menominee Drums: Tribal Termination and Restoration, 1954–1974*. Norman: University of Oklahoma Press, 1982.
- Prucha, Francis Paul. *Americanizing the American Indians: Writings by the "Friends of the Indian," 1880–1900*. Cambridge, Mass.: Harvard University Press, 1973.
- . *American Indian Policy in Crisis: Christian Reformers and the Indian, 1865–1900*. Norman: University of Oklahoma Press, 1976.
- . *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.

Indian Self-Determination and Education Assistance Act (ISDEAA; 1975)

The Indian Self-Determination and Education Assistance Act (1975) is a federal statute enacted to implement a governmental move toward a policy of tribal self-determination. The law requires the federal government to contract with Indian tribes to improve the quality of service programs. It also establishes educational assistance programs for tribes. The legislation provides for local tribal control of programs that were once administered by federal agencies, such as healthcare, law enforcement, education, and other social and governmental programs.

The legislation was designed to facilitate “maximum Indian participation in the Government and education of Indian people [and] . . . the full participation of Indian tribes in programs and services conducted by the [f]ederal [g]overnment for Indians.” By maximizing tribal input and control of administration of programs, the legislation fulfilled the federal objective of self-determination in Indian affairs. Congress determined that the federal government’s unilateral administration of Indian service programs failed to enhance the progress of tribal communities, and that local tribal control of social programs would promote self-sufficiency and efficiency for the tribes.

The legislation set forth mechanisms for establishing contractual relationships between the federal government and Indian tribes. As the U.S. Court of Appeals for the Ninth

Circuit explained in *Hoopa Valley Indian Tribe v. Ryan* (2005), contracts between the federal government and Indian tribes under the act take two basic forms: self-determination contracts and self-governance contracts. In short, the tribes contract with the federal government to carry out services that were previously administered by the federal government. Federal funding is passed through to tribal governments for the stated purpose of carrying out specified contractual programs that the tribes then administer. Under these self-determination contracts, the government appropriates for tribes a secretarial amount—the amount the government would have spent to administer a particular program—in exchange for the tribes' administration of those programs.

Once a tribe takes on the responsibility to contract services, the federal government must provide the funding, including contract support costs, even if the funding allocations are exceeded. The U.S. Supreme Court held in *Cherokee Nation of Oklahoma v. Leavitt* (2005) that where Congress had made a general appropriation to the Indian Health Service (IHS) to pay specific contracts made pursuant to the act under which tribes administered health services, the government could not avoid its contractual promise to pay full contract support costs, even if the IHS's total lump-sum appropriation was insufficient to pay all contracts the IHS had made.

See also *Indian Health and Healthcare; Self-Determination; Termination and Restoration.*

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BIBLIOGRAPHY

- Cherokee Nation of Oklahoma v. Leavitt*, 543 U.S. 631 (2005).
 Dean, S. Bobo, and Joseph H. Webster. "Contract Support Funding and the Federal Policy of Indian Tribal Self-Determination." *Tulsa Law Review* 36 (2000): 349–379.
 Glazer, Elizabeth M. Comment, "Appropriating Availability: Reconciling Purpose and Text Under the Indian Self-Determination and Education Assistance Act." *University of Chicago Law Review* 71 (2004): 1637.
 Green, Shelby D. "Specific Relief for Ancient Deprivations of Property." *Akron Law Review* 36 (2003): 245.
Hoopa Valley Indian Tribe v. Ryan, 415 F.3d 986 (9th Cir. 2005).
 Van Arsdale, Barbara J. "Validity, Construction, and Application of the Indian Self-Determination and Education Assistance Act." *ALR Federal* 190 (2006): 249.
 Walch, Michael C. Note, "Terminating the Indian Termination Policy." *Stanford Law Review* 35 (1983): 1181–1215.

Indian Slaveholding

See *Slavery; Indian Slaveholding.*

Indian Territory

In the nineteenth century, the term Indian Territory referred to the "unorganized" area of the West to which the United States relocated Native American peoples. It was unorganized in the sense that it did not have a territorial government as outlined by federal law. The tribes who lived there possessed at least partial autonomy, maintaining their own political and legal institutions. By the early twenty-first century, the term was most often used to indicate the area that became the state of Oklahoma.

The Removal Era

The removal policy created the Indian Territory. American leaders began to consider removal as early as 1803, the year of the Louisiana Purchase. President Thomas Jefferson and others speculated that eastern tribes might be persuaded to relocate to the vast new possession, leaving their old homelands open for American settlement. Over the next several decades, removal grew from a wishful notion into the main goal of American Indian policy. Federal agents brought increasing pressure to bear upon eastern tribes to make removal treaties, trading their homelands for territory in the West. This trend reached a peak in 1830 with the passage of the Indian Removal Act, which authorized the president to purchase all remaining tribal land and to effect the relocation of Indian communities. The eastern United States was to be cleared of Indian tribes, with a portion of the West set aside to receive the migrants.

When the first removals took place, the tribes' new western homeland was vaguely defined, at best. The 1834 Indian Trade and Intercourse Act provided more precise boundaries, identifying "Indian Country" as United States territory west of the Mississippi River and not within the states of Missouri and Louisiana or the territory of Arkansas. As removals continued, a long band of Indian nations and reservations emerged in the center of North America. This area, which gradually came to be known as the Indian Territory, began at the Red River in the south (the border with Mexico and later Texas) and ran north to the Missouri River. The population of the territory was concentrated in the south, where the United States relocated the Five Tribes of the Southeast—the Cherokees, Creeks, Choctaws, Chickasaws, and Seminoles.

In the 1830s politicians and Indian service personnel considered forming the unorganized Indian Country into an official U.S. territory. Several schemes were proposed, with



Oklahoma settlers are escorted by U.S. soldiers away from "Indian Territory," the area of the West to which the United States relocated Native American peoples in the 1830s and 1840s.

President Andrew Jackson favoring a territory covering all of twenty-first-century Kansas and Oklahoma, along with southern Nebraska and part of Colorado. These proposals were generally accompanied by plans for a multiracial council to govern the territory, along with a federally appointed executive. None of these ideas made it into law, and the Indian Country remained unorganized in the eyes of the federal government. Congress, however, did grant jurisdiction over the region to federal courts in Missouri and Arkansas.

New Borders and New Removals

In the 1850s the United States absorbed the northern portion of the Indian Territory. Federal agents negotiated treaties with tribes living in the area, groups like the Osages and Missouris, Omahas, Shawnees, and Iowas. Under those treaties, the United States purchased most of the land and concentrated the Indian population on small reservations. Congress then organized its new possession politically, creating Kansas and Nebraska Territories. As a result of these actions, Indian Territory shrank to a region equivalent to twenty-first-century Oklahoma.

At the start of the Civil War (1861–1865), most of the Indian Territory was owned by the Five Tribes; however, the conflict brought about a change in that situation. Segments of the Five Tribes supported the Confederacy, and, once the fighting stopped, the U.S. government required that new treaties be made to reestablish relations. In those treaties, completed in 1866, the Five Tribes agreed to cede land to accommodate future Indian removals. Some of the treaties promised to transfer the land to the United States. The Cherokees agreed to sell the western portion of their territory (known as the Cherokee Outlet) directly to newly arrived tribes. Thus, Indian Territory again became a destination for removed peoples, as the ceded lands were turned into new reservations. These included homes for the Osages, the Wichitas and Caddos, the Kiowas and Comanches, and the Cheyennes and Arapahos. For some of the tribes relocated to Indian Territory, this was not the first removal. The Potawatomis and Shawnees, for example, had been moved to Kansas earlier in the nineteenth century from the Great Lakes region. Delawares arrived in the territory after multiple dislocations. As the ceded lands filled up, the leaders of the Five Tribes began to describe the Indian Territory as a refuge, the last place where Indian communities might manage at least a portion of their own affairs free of state domination.

Attempts at Reorganization

In the 1870s and 1880s, Congress considered reorganizing the Indian Territory so that it would conform to U.S. territorial law. This would have meant the creation of a territorial government over the tribes, with an appointed governor and elected legislature. It almost certainly would have meant the dismantling of the Five Tribes' own governments. Additionally, most proponents of reorganization envisioned the allotment of the tribes' common lands and the opening of the territory to non-Indian settlement.

Not surprisingly, tribal leaders objected to these proposals. As they frequently reminded American politicians, the treaties between the United States and the Five Tribes contained promises that tribal lands would never be included in an American state or territory without the Indians' consent. Moreover, tribal leaders argued that reorganization was simply a tool wielded by Americans seeking to cheat the tribes. If the Indian Territory's political status were changed, they predicted, every greedy white man in the West would rush in and steal the Indians' property. The territory's residents, tribal leaders insisted, preferred to retain their own governments and their common lands. In the end, none of the

many reorganization bills introduced in Congress passed. Fighting this policy, however, required a great deal of energy and money, as the Five Tribes yearly sent delegates to Washington, D.C., to watch over Congress and beat back hostile legislation.

During this time, a multitribal council for the territory briefly existed. The Five Tribes' 1866 treaties had provided for such a body to regulate relations among the various Indian peoples. Officials in the Indian service hoped that this general council would help convince Indian Territory tribes that the United States intended to behave fairly toward them. They also believed that it would be a first step toward erecting a regular territorial government over the tribes and, eventually, the full integration of the unorganized country into the United States. After a few preliminary meetings, the council held its first full-scale session in December 1870 at Okmulgee, Creek Nation. Although leaders of the Creeks and Cherokees seem to have dominated the proceedings, representatives from a dozen Indian Territory tribes attended. At this meeting, delegates drew up a constitution, which led some American officials to believe that the Indians would soon accept a United States territorial government. What this "Okmulgee Constitution" proposed, however, was closer to a multitribal confederation, a system in which distinct tribal identities and political ways would continue. When the document was submitted to Washington, President Ulysses Grant suggested that it be amended to conform to regular U.S. territorial law. Those proposed changes, along with distrust of all territorial governments, led most of the Indian Territory tribes to reject the constitution. The general council continued to meet for several more years, offering a forum in which tribal leaders expressed opposition to Congress's efforts to reorganize the territory and to the emerging allotment policy. The last session was held in 1875. Congress eliminated funding for the council, and the tribal governments were unable or unwilling to pay for the institution themselves.

The Allotment Policy

All of the Indian Territory had been allocated to various tribes by 1885, with the exception of two substantial tracts. In the center of the territory were the "Unassigned Lands," which amounted to about two million acres. In the northwest corner there was a section of the Cherokee Outlet that the Cherokee government had not yet sold. These areas were coveted by the citizens of neighboring states, who urged federal authorities to open the land for settlement.

By this time, allotment had become the central goal of American Indian policy. Breaking up reservations and common tribal land, it was hoped, would provide a catalyst for Indian assimilation. It would likely also leave "surplus" property that could be handed over to non-Indian homesteaders. In 1887 Congress passed the General Allotment Act, or Dawes Act, which authorized the president to have reservations surveyed and divided. This law applied to, among other groups, the tribes in the western portion of the Indian Territory. The Five Tribes, however, were exempted from its provisions, as were the Osages, Miamis, Peorias, and Sacs and Foxes.

In 1889 the United States announced that it would permit non-Indian settlement of the Unassigned Lands. On April 22, the day the area was officially opened, the first of the great Oklahoma land runs took place as thousands of settlers rushed in. A year later, Congress created Oklahoma Territory. This covered the Unassigned Lands and all of the Indian reservations to the west of the borders of the Five Tribes. With this act, Indian Territory was reduced to the lands of the Five Tribes, along with the small reservations located in the territory's northeastern corner. A portion of the Cherokee Outlet remained tribal property until 1893, when the Cherokee government finally sold it to the United States.

While the Five Tribes were not subject to the Dawes Act, federal officials hoped that they could be convinced to accept allotment. In the late 1880s and early 1890s, the United States pressured the tribal governments to negotiate allotment agreements. These would involve not only the breaking up of the common lands, but also the dismantling of the tribal governments themselves. Tribal leaders resisted as best they could. The Indians, they insisted, wanted to retain their existing tribal status. They argued that landholding in common and self-government protected their people, and they predicted that if the allotment campaign succeeded the Indians would soon be cheated of much of what they owned.

In 1893 Congress increased the pressure by creating the Dawes Commission, which was charged with making allotment deals with the Five Tribes. The tribal governments continued to argue that their people neither wanted nor required allotment. In reply, the American commissioners suggested that if the tribes did not submit, Congress would eventually impose allotment upon them. A congressionally mandated settlement, they warned, would be far harsher than one negotiated with the commission. The commissioners also issued reports that portrayed the Indian governments as hopelessly corrupt and suggested that the large number of American citizens living in the territory were being unjust-

ly deprived of civil and political rights. Representatives from the Five Tribes responded to these charges, but they found few Americans willing to listen.

In 1895 the United States began to force the allotment issue. That year, Congress granted the Dawes Commission the power to begin surveying the Five Tribes' lands and drawing up rolls of those eligible to receive land in severalty. Three years later, Congress passed the Curtis Act, which ordered allotment of the Five Tribes' territories with or without the Indians' consent. Under the new law, however, the specific terms of allotment could be modified through negotiations. Between 1897 and 1902, each of the Five Tribes completed allotment agreements. Even after the tribal governments submitted, some in the Indian Territory continued to resist. In the Cherokee Nation, the Nighthawk Keetoowahs refused to enroll for allotments. In the Creek Nation, Chitto Harjo led a conservative movement that pursued a similar strategy of noncooperation. In response, American officials enrolled the resisters and assigned them allotments against their will.

Statehood

As allotment proceeded, tribal leaders made one last effort to preserve a small portion of the Indian Territory. By 1905 plans were being made to bring the Oklahoma and Indian Territories into the Union as a single state. Many in the Indian Territory objected to this idea, fearing that white Oklahomans would dominate the new government. Chief Pleasant Porter of the Creeks called a convention to draft a constitution to make Indian Territory a separate state. This was to be named Sequoyah, after the inventor of the Cherokee syllabary (a series of written characters, each of which represents a syllable). Congress rejected the constitution, however, and in 1907 it joined the territories and admitted them into the Union as the single state of Oklahoma.

A remnant of the Five Tribes' governments lived on in the form of federally appointed chiefs. These officers were needed to help attend to the complex business of managing allotment. Later in the twentieth century, Oklahoma tribes reconstructed their governments, and in the early twenty-first century the state was home to some of America's most populous and influential Indian nations. With Oklahoma statehood, however, the Indian Territory ceased to exist. Years later, the Cherokee humorist Will Rogers reflected on that moment, commenting, "We spoiled the best Territory in the World to make a state" (Robert J. Conley, *The Cherokee Nation: A History*, 2008).

See also *Allotment in Severalty*; *Curtis Act*; *General Allotment Act (Dawes Act) of 1887*; *Indian Removal Act (1830)*; *Removal*.

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BIBLIOGRAPHY

- Burton, Jeffrey. *Indian Territory and the United States, 1866–1906*. Norman: University of Oklahoma Press, 1995.
- Conley, Robert J. *The Cherokee Nation: A History*. Albuquerque: University of New Mexico Press, 2008.
- Denson, Andrew. *Demanding the Cherokee Nation: Indian Autonomy and American Culture, 1830–1900*. Lincoln: University of Nebraska Press, 2004.
- Hagan, William T. *Taking Indian Lands: The Cherokee (Jerome) Commission, 1889–1893*. Norman: University of Oklahoma Press, 2003.
- Perdue, Theda. *Nations Remembered: An Oral History of the Cherokees, Chickasaws, Choctaws, and Seminoles in Oklahoma, 1865–1907*. Norman: University of Oklahoma Press, 1993.
- Unrau, William E. *The Rise and Fall of Indian Country, 1825–1855*. Lawrence: University Press of Kansas, 2007.
- Wickett, Murray R. *Contested Territory: Whites, Native Americans, and African Americans in Oklahoma, 1865–1907*. Baton Rouge: Louisiana State University, 2000.
- Wright, Muriel. *A Guide to the Indian Tribes of Oklahoma*. Norman: University of Oklahoma Press, 1986.

Indian Title

Indian title is a legal concept used to explain the complicated manner in which Indian tribes hold property interests. It separates land title into ownership and the right of occupancy. Based on Francisco de Victoria's *De Indies* (1557) and Emmerich D. Vattel's *Law of Nations* (1758), two early treatises on international law, Chief Justice John Marshall used this separation of ownership and occupancy in the Supreme Court decision *Johnson v. M'Intosh* (1823). He explained that the act of discovery gave the discovering nation underlying title against all other European nations when completed by possession. Indian tribes retained a "right of occupancy" whereby they were recognized as the rightful occupants of the soil with the legal right to retain possession of it. The discoverer's title was subject to that right of occupancy even though discovery vested in the discoverer the exclusive right to extinguish Indian title "either by purchase or conquest."

In *Cherokee Nation v. Georgia* (1831), Marshall declared for the Supreme Court that "Indians are acknowledged to have an unquestionable . . . right to the lands they occupy, until that right shall be extinguished by a voluntary cession to our government." By virtue of its victory over Great Britain in the American Revolutionary War (1775–1783), Mexico in the U.S.–Mexico War (1846–1848), and treaties or purchases from Spain and France, the continental United States suc-

ceeded to those nations' discovery rights. Tribal lands were thus "the exclusive province of the federal law," and the Indian title was "extinguishable only by the United States," according to the Court's 1974 decision in *Oneida Indian Nation v. County of Oneida*.

See also *Aboriginal Indian Title*; *Cherokee Nation v. Georgia*; *Johnson v. M'Intosh*; *Marshall, John*; *Mitchell v. United States*; *Right of Soil*; *Worcester v. Georgia*.

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BIBLIOGRAPHY

- Cherokee Nation v. Georgia*, 30 U.S. 1 (1831).
Cohen, Felix S. "Original Indian Title." *Minnesota Law Review*, vol. 32 (1947): 28–59.
Oneida Indian Nation v. County of Oneida, 414 U.S. 661, 667 (1974).
Robertson, Lindsey G. *Conquest by Law: How the Discovery of America Dispossessed Indigenous Peoples of Their Lands*. New York: Oxford University Press, 2007.
Williams, Robert A., Jr. *The American Indian in Western Legal Thought: The Discourses of Conquest*. New York: Oxford University Press, 1992.

Indian Trade, Regulating

Efforts to manage and regulate trade with Indians quickly followed the first commercial interactions between Europeans and Native Americans in the fifteenth and sixteenth centuries. In later years, the United States attempted to regulate trade to establish peace, order, and fair dealings between its citizens and Indians.

Early Contact and Indian Trade Regulations through the End of the Seventeenth Century

The opportunity for profit and the lawless nature of early trading led colonists, government administrators, and imperial authorities to attempt to regulate the Indian trade, often with little success. Commercial associations and companies developed the first regulations. With Basque, French, English, Spanish, and Portuguese fur trading increasing after 1580, merchants and fur dealers hired representatives or factors, or went themselves, to supervise shipside and beach exchanges. Vessel captains were carefully instructed on acceptable prices on goods (the "standard" of trade) to offer Native people; however, merchants supervising trades were powerless to stop theft and violence from occurring. Fighting between Indians and English settlers in Virginia in 1622, 1644, and 1654 led to some of the first statutes that attempted to restrict Native trade to colonial trading houses and to limit European traders from visiting Indian towns without permission. However, it was only after the commer-

cial establishment of trade in the early seventeenth century that more comprehensive regulations were established.

Seventeenth and eighteenth century mercantilism theoretically empowered the Crown to reconcile private merchant interests with the public good. Colonial authorities frequently intervened in the Indian trade to limit a merchant or trader's freedom if it was perceived to be endangering colonial security. The first colonial statutes, in that respect, prohibited the trade of "warlike weapons" such as muskets, powder, and shot, as listed in the seventeenth-century Minutes of the New England Council. James I in his Royal Proclamation of 1622 forbade unauthorized trade in New England in part to impede the barter in weapons that might empower Indian buyers. Charles I issued a similar prohibition in 1630. French joint stock trading companies, first forming under Henry IV in the early seventeenth century, also attempted to stop such traffic. The French restricted gun sales only to their Christianized allies before the fall of Huronia in 1658, but these barriers were always porous. As early as 1621, French free traders at Tadoussac evaded royal monopolies and prohibitions to sell guns to the Montagnais-Innu. William Bradford, at Plymouth between 1627 to 1657, lamented how his brethren, "hearing what gain the French and Fishermen made trading of pieces, powder and shot . . . began the practice of the same in these parts . . . notwithstanding any laws to the contrary" (Brian Given, *A Most Pernicious Thing: Gun Trading and Native Warfare in the Early Contact Period*, 1994). By the final phase of New France's Beaver Wars (c. 1650–1700), one of the Five Nations' key grievances against the French was their heavy traffic in arms and gifts of muskets to their enemies.

Enforcement problems made restrictions on alcohol trading similarly unsuccessful. New France's Company of 100 Associates and, later, the Habitant Company (both of which were trading prior to New France's establishment as a colony in 1663), were powerless to curb a rising trade in alcohol. The Jesuits attempted to stop the trade in Huronia, eventually invoking the famous *cas réservé* against brandy traders that supposedly banished them to hell for this mortal sin in trade. French authorities, meanwhile, threatened fines and public punishments for those caught bartering alcohol. The Dutch in New Netherland similarly outlawed alcohol trading in 1643. They and later English colonists in New York prosecuted those who ignored the trade restriction, fining or banishing them from the colony.

By the mid-seventeenth century, however, rum surpluses and huge profit potentials in the trade prompted widespread

alcohol trading in all English colonies. Despite the numerous English statutes outlawing the commodity in direct trades or exchange or as payment of wages owed, rum trading continued. Eventually, significant compromises to the prohibitive measures were accepted. By the mid-eighteenth century colonies were using license and bond requirements to try to regulate the trade and the disorder it caused.

The Eighteenth Century and the Shift from Commodity to Commercial Regulation

By the eighteenth century, trade regulations sought not so much to prohibit the circulation of certain commodities but to establish principles of just pricing and fair trading in unsettled areas where normal market mechanisms did not exist. Georgia's regulation of its "Indian traders," well established by the late 1730s, included a system of annual licensing. This was designed to make individuals more accountable in their independent dealings with the Chickasaws and other crucial allies of the English. Growing concerns over the influence of French traders inland had already led New York's Indian commissioners to promise fair trade and greater regulation of the behavior of English traders, the use of weights and measures, and flagrant alcohol trading, issues frequently raised in meetings with Five Nations sachems (chiefs). By the 1720s the colony's Indian trade promoters, Peter Wxaxall and Philip Livingston, and the colonial governor's office were urging the colony to extend the carrying trade inland to the Onondagas to offset French influence, and, in principle, to see that just prices were offered at Fort Oswego. The complaints of sachems at annual meetings, however, indicate that this was never achieved.

The documented speeches of New York sachems, trading captains at Hudson Bay, and Native leaders meeting Virginian and Carolinian colonists clearly suggest that Native negotiators had a hand in shaping trade regulations, or at least pressing for their broader application. In response, colonial authorities turned to new means to lessen abuse based in some measure on Native demands. French and English colonies heavily relied on gifts to establish and maintain good relations with Native communities. Popular assemblies also subsidized gifts to maintain good Indian relations that had once been maintained by trade. The governments also used these presents to divert trade from the hands of unfair traders. In Massachusetts, publicly funded trading houses were established with the 1694 Act for Regulating Trade with Indians. Reinstated in 1699 and 1713, the act monopolized trade so that "the Christian religion be not

scandalized, nor injustice done to the Indians by extortion" (Yasuhide Kawashima, *Puritan Justice and the Indian: White Man's Law in Massachusetts, 1630–1763*, 1986). A 1726 amendment charged factors at publicly funded trading houses not "to trust or give Credit to the Indians for Goods sold them under any pretence whatsoever," and to be sure that they were "constantly supplied at easy rates" (Ronald Oliver MacFarlane, "The Massachusetts Bay Truck-Houses in Diplomacy with the Indians," *The New England Quarterly*, 1938). These trading houses and coastal voyages of public trading vessels brought cheaply priced goods into the trade to offset the acts of unscrupulous traders. The factory system became a model for the British Board of Trade, which was responsible for regulating trade in British North America. It was also the precedent for a system proposed at the Albany conference in 1754, which was looking for ways to offset the influence of French traders.

The factory system was organized to curb a growing problem in trade: credit. The use of credit had risen along with commercial growth in the fur trade after 1690, when more supplies of European trade goods became available and consignment arrangements grew from colonial centers such as Charleston. Credited traders differed from earlier factors in key respects. The latter took responsibility for goods not their own and usually received a salary, sometimes with a bonus for their efforts. Credited traders, by contrast, were advanced goods as their own and wielded greater freedom to set prices above or below their market value. They extended large amounts of credit to Indians. Some scholars have dated the expansion of this type of trading in Carolina to 1692, when traders, carrying goods in their colorful wagons and ringing hawking bells, enjoyed new freedom to access the Savannah River towns of the Cherokees. In the eighteenth century, the use of credit expanded in almost every colonial settlement in the region. Disorder arose in Carolina and later Georgia, Virginia, and the Pennsylvania hinterlands, where credit met the needs of metropolitan dwellers, but soured relations with Native traders who expected reciprocity—goods for goods—in their relations. Limiting credit then became one of the greatest preoccupations of the colonial authorities. Georgia's governor, James Wright, believed the credit system antagonized Indian customers and advocated controlling supplies to manipulate Indian behavior. The Lords of Trade and Plantation, an administrative body created in 1675 by Charles II, collected stories of abuse, fraud, and Indian indebtedness after the 1715 Yamasse War, which was blamed chiefly on Carolina's

credited traders who had heavily indebted their rebelling Native clients.

Indian warfare and raiding in the Southeast led imperial authorities to propose extraordinary measures to preserve just prices, establish market regulation, and curb abusive credit. Irregularities in trading and stories of deceitful behavior inspired renewed efforts to stamp out deliberate fraud, including the “over-plus” system, which strategically cheated Indians who purchased discontinuous commodities like powder, measured cloth, or alcohol. The inefficiencies of local initiatives and the sheer geographic expansion of trading led to the first colonial conferences before the Seven Years’ War (1756–1763). Sir William Johnson, Benjamin Franklin, and other proponents for coordinated regulation met in 1754 to form the system of southern and northern superintendencies. This marked the most ambitious experimentation in trade regulation to date; the new system attempted to modify the nature of commerce by advocating fixed price lists and severely restricting credit.

The Early Republic and Trade Regulation

In many respects, the blueprint for the early Republic’s Indian trade regulations was carried over from the imperial government’s attempts to deal with, and initially prohibit, trade in Indian Country. These imperial regulations had been announced in the Royal Proclamation of 1763, which established a line between colonies and Indian lands to the west. After the American Revolution began, the principle of centralized intercolonial regulation was inserted into the first regulations enacted on July 12, 1775, by the Continental Congress. This was in large measure due to Benjamin Franklin’s influence and his belief that only a centralized authority could best regulate the trade.

George Washington’s Indian trade regulations revived the factory system to offset British influence among the U.S.’s western tribes, which were dealing with increased settlement of whites in their lands. The first of Congress’s trade and intercourse laws in 1790 continued a colonial tradition of licensing traders, penalizing free traders, and raising funds for gifts. But by 1795 Congress also provided for a presidential appropriation to purchase goods and sell them at factories first established in Ohio Country. The public system received more funding by 1796 when factories were established throughout the southern and western frontiers. These continued to operate through the War of 1812 (1812–1814), but were dismantled by 1822 in light of growing criticism of the regulated trade, mostly leveled by John

Jacob Astor’s American Fur Company and other promoters of free trade.

Jurisdictional authority was a major problem in trade, even though Congress, through the Articles of Confederation, nominally held the power of regulating trade and managing all Indian affairs. Although greater regulation of trade in Indian Country was enacted through the trade and intercourse acts of 1790, 1793, 1796, 1802, and 1822, state authorities competing to enforce the regulations and, especially, vague definitions of which violations could be prosecuted, undermined the comprehensive system. These shortfalls were more plainly seen after Thomas Jefferson’s 1802 legislation reenacted prohibition in alcohol trading to Indians.

The early intercourse acts progressively refined definitions of criminal behavior among traders in Indian Territory and sought to protect Native property rights in trade. Now criminal court procedures were applied initially to white traders, and the new regulations recognized crimes committed against Indians in Indian Country as equivalent to those committed against the inhabitants of neighboring states or territories. Subsequent acts established procedures for arresting, imprisoning, and posting bail for white offenders and provided for severe punishments for murder, robbery, and larceny committed by whites against Indians. By 1817 Congress extended the same punishments to Indians in Indian Country who had committed crimes against whites. Problems arose, however, with enforcement. Indian crimes against whites were punished more frequently than white crimes against Indians, and Indian leaders frequently pointed out the inequity of justice. Individuals charged with violating the federal trade and intercourse laws in a state or territory were tried under the laws of jurisdiction where the act was committed. Within Indian Country, Indian and white offenders were, in theory, tried in federal courts. This regulation was only marginally successful in achieving the objectives its architects had intended. Crimes were too widespread for the small federal bureaucracy to control, and Congress refused to provide the funding and staff needed to control crimes and trade abuses. As a result, unscrupulous traders, the failure to control the distribution of alcohol, and an absence of even-handed justice for Indians continued to disturb relations between Americans and Natives for much of the first half of the nineteenth century.

Trade Regulation after 1834

Nineteenth century trade restrictions, especially those attempting to prohibit alcohol, proved difficult to enforce

from the start, given the complexity of legal definitions of "Indian Country." With only vague distinctions made between nonstate federal lands and Indian Country, violators soon challenged in court the validity of many features of the 1802 prohibition. This issue, plus numerous legislative loopholes, continued to undermine new regulations introduced in 1822.

The comprehensive 1834 Trade and Intercourse Act, in which the alcohol trade in particular was addressed, became a guiding regulatory approach for the next 120 years. It provided for stiff penalties for those selling alcohol within, or introducing alcohol into, Indian Country. The act also more effectively defined what was considered Indian Country. Even the 1834 legislation, however, was difficult to enforce in some instances, as many Indian agents and federal officials faced prohibitively lengthy travel times to territorial courts. Also, more specific methods to implement the act's regulations were needed, a situation partly redressed in 1847, when stiff prison sentences were levied for violators and Indians were declared to be competent witnesses in courts of law. Concurrently, the discretionary power of agents was increased to withhold annuities in cases where liquor might be available nearby, or where chiefs of tribes had not yet pledged to stop the introduction of alcohol in their territories. These regulations, however, were made to stop trading in a region—Indian Country—not the actual act of trading to an Indian. This resulted in flourishing alcohol trade in borderland areas, around reservations, and on the borders of Indian Country itself, a problem not addressed fully until 1861 when regulations regarding alcohol trading made it illegal for settlers to sell liquor to Indians, although not illegal for Indians to purchase it.

The era following the Civil War (1861–1865) saw a magnification of the problems of this approach. Expanding settlement provided Indian buyers greater access to settlers and businessmen more than willing to sell them alcohol. Treaty negotiations were often undertaken because of outstanding Indian debts to white traders, debts which the government assumed in exchange for the Indians' surrender of their lands. The government's laxity in enforcing regulations impacted Indians grievously. Despite prohibition and numerous regulatory measures to control alcohol, it destabilized Native governments and undermined Indian negotiating capacity at a critical moment in their history.

In conclusion, at best the United States's efforts to regulate the Indian trade, which were designed to stabilize relations with the Indian tribes, were only sporadically successful. As was typical in the history of U.S. Indian policy, the govern-

ment's benevolent intentions were often undermined by poor funding, haphazard implementation, or a lack of will.

See also *Alcohol; American Fur Company; Articles of Confederation; Beaver Wars; Civilization Program; Factory System; France, Indian Policy of; Franklin, Benjamin; Fur Trade; Great Britain, Indian Policy of; Indian Country; Indian Policy of the Continental Congress; Indian Territory; Jefferson, Thomas; Johnson, William; Massachusetts, Indian Policy of; Netherlands, Indian Policy of; New York, Indian Policy of; Reservations; Trade and Intercourse Acts; Virginia, Indian Policy of; Washington, George.*

George Colpitts

BIBLIOGRAPHY

- Crane, Verner W. *The Southern Frontier: 1670–1732*. Ann Arbor: University of Michigan Press, 1954.
- Delâge, Denys. *Bitter Feast: Amerindians and Europeans in Northeastern North America, 1600–64*. Vancouver: University of British Columbia Press, 1993.
- Given, Brian. *A Most Pernicious Thing: Gun Trading and Native Warfare in the Early Contact Period*. Ottawa: Carleton University Press, 1994.
- Grabowski, Jan. "French Criminal Justice and Indians in Montreal: 1670–1760." *Ethnohistory*, vol. 43, no. 3 (Summer 1996): 405–429.
- Kawashima, Yasuhide. *Puritan Justice and the Indian: White Man's Law in Massachusetts, 1630–1763*. Middletown, Conn.: Wesleyan University Press, 1986.
- Koehler, Lyle. "Red-White Relations and Justice in the Courts of Seventeenth-Century New England." *American Indian Culture and Research Journal*, vol. 3, no. 4 (1979): 1–31.
- MacFarlane, Ronald Oliver. "The Massachusetts Bay Truck-Houses in Diplomacy with the Indians." *The New England Quarterly*, vol. 11, no. 1 (March 1938): 48–65.
- Mancall, Peter C. *Deadly Medicine: Indians and Alcohol in Early America*. Ithaca and London: Cornell University Press, 1995.
- Martin, Jill E. "'The Greatest Evil': Interpretations of Indian Prohibition Laws, 1832–1953." *Great Plains Quarterly*, vol. 23 (Winter 2003): 35–53.
- Matson, Cathy. "'Damned Scoundrels' and 'Libertisme of Trade': Freedom and Regulation in Colonial New York's Fur and Grain Trades." *William and Mary Quarterly*, 3rd ser., vol. 51, no. 3 (July 1994): 389–418.
- Morrison, A. J. "The Virginia Indian Trade to 1673." *William and Mary Quarterly*, 2nd ser., vol. 1, no. 4 (October 1921): 217–236.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Ramsey, William L. "'Something Cloudy in their Looks': The Origins of the Yamasee War Reconsidered." *The Journal of American History*, vol. 90, no. 1 (June 2003): 44–75.
- Unrau, William E. *White Man's Wicked Water: The Alcohol Trade and Prohibition in Indian Country, 1802–1892*. Lawrence: University Press of Kansas, 1996.
- Usner, Daniel H., Jr. *Indians, Settlers, Slaves in a Frontier Exchange Economy: The Lower Mississippi Valley Before 1783*. Chapel Hill: University of North Carolina Press, 1992.
- White, Richard. *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815*. New York: Cambridge University Press, 1991.

Indian Tribal Energy Development and Self-Determination Act (ITEDSDA; 2005)

The Indian Tribal Energy Development and Self-Determination Act (ITEDSA) was enacted in 2005 as part of the massive Energy Policy Act. ITEDSA represents a significant change in the way Indian tribes can choose to develop their energy minerals.

Since Congress first authorized mining leases of Indian lands in 1891, federal laws have required the secretary of the interior to approve such leases. Even in the Indian Mineral Development Act of 1982, when Congress authorized tribes to negotiate mineral agreements other than leases, the secretary's approval of the agreements was still required. ITEDSA changes that process.

ITEDSA authorizes Indian tribes, at their option, to enter into tribal energy resource agreements (TERAs) with the Department of the Interior. The secretary of the interior must approve the TERA, but once a TERA has been approved, the tribe can enter into leases and other types of agreements for energy resources development and grant rights-of-way for pipelines and electric transmission and distribution lines without the approval of the secretary for each specific agreement or right-of-way. In general, agreements and rights-of-way under a TERA are limited to thirty years, although oil and gas leases may be granted for the standard lease term of ten years and as long thereafter as the oil or gas is produced in paying quantities.

Under ITEDSA, the secretary is obligated to protect tribes against violations by other parties of an agreement or right-of-way, but the statute specifically provides that the federal government shall not be liable for any loss that a tribe suffers from a lease or agreement entered into pursuant to a TERA.

No tribe is required to enter into a TERA with the Department of the Interior. Congress made TERAs available as an alternative to those tribes that wish to exert more control over the development of their energy resources. Tribes that do, however, must assume most of the risk if the agreement or right-of-way is not successful.

See also *Indian Mineral Development Act (1982); Mining and Mineral Rights; Oil and Gas.*

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BIBLIOGRAPHY

Indian Tribal Energy Development and Self-Determination Act of 2005, Public Law 109-58, 109th Cong., 1st sess. (July 29, 2005).

Indian Tribal Government Tax Status Act (1982)

More than \$50 billion in capital needs go unmet each year in Indian Country in such vital sectors as infrastructure, community facilities, housing, and enterprise development, in part due to the restrictions imposed on tribal access to the capital markets, specifically the ability of tribal governments to issue tax-exempt debt. While the goal of the Indian Tribal Governmental Tax Status Act of 1982 is to treat tribes and states equally under the Tax Code, the act falls far short of achieving the equality desired by tribes and, in fact, substantially limits their ability to raise capital for economic development activities.

Although the act extends certain tax provisions to American Indian tribal governments on the same basis as states, it does not recognize tribes as equivalent to states for all tax purposes, specifically denying them the elements of public finance that they desire most. For example, state and local governments often issue tax-exempt private activity bonds to finance a range of projects such as solid waste facilities, sewage facilities, and low-income housing. Indian tribes, however, cannot issue these bonds.

Worse, however, is the act's requirement that tribal tax-free bond proceeds only be used for "essential governmental functions," a restriction not applicable to states. Section 7871(e) further limits the scope of available tax-exempt bonding to activities "customarily performed by State and local governments with general taxing powers," without providing any guidance as to when a particular activity becomes "customary" for a nontribal government.

See also *Indian Country; Taxation.*

Gavin Clarkson

BIBLIOGRAPHY

Aprill, Ellen P. "Tribal Bonds: Indian Sovereignty and the Tax Legislative Process." *Administrative Law Review*, vol. 46 (Summer 1994): 333-368.

Clarkson, Gavin. "Tribal Bonds: Statutory Shackles and Regulatory Restraints on Tribal Economic Development." *North Carolina Law Review*, vol. 85 (2007): 1009-1085.

Williams, Robert A., Jr. "Small Steps on the Long Road to Self-Sufficiency for Indian Nations: The Indian Tribal Governmental Tax Status Act of 1982." *Harvard Journal on Legislation*, vol. 22 (1985): 335-397.

Indian Trust Counsel Authority

President Richard Nixon proposed creation of the Indian Trust Counsel Authority in 1970. The authority would provide Indians legal representation within the federal government independent of existing agencies charged with determining Indian affairs, but beholden to other, sometimes conflicting, interests. This change, which would promote the administration's policy of "self-determination without termination," was designed to fulfill trust obligations the federal government owed to Indians. Congress, however, failed to create the authority.

Delivered on July 8, 1970, Nixon's Special Message to the Congress on Indian Affairs portrayed the trust relationship as a set of solemn obligations, arising from commitments to Indians contained in written treaties and through formal and informal agreements carrying great moral and legal force. The recommendation to establish the Indian Trust Counsel Authority, one of nine proposals, would attach specifically to Indians' natural resource rights.

Nixon's proposal expressly recognized the conflict of interest existing in legal disputes concerning Indians' land and water rights, where the secretary of interior and the attorney general must pursue both the national interest and that of Indians. The Indian Trust Counsel Authority, by contrast, would assure Indians independent legal representation. A three-person board, appointed by the president with Senate advice and consent, would direct the authority. At least two board members would be Indians, and the authority would exist independent of the departments of interior and justice.

Bills to establish the authority were introduced to Congress in 1971 and in 1973. None became law. Over twenty years later, in 1994, Congress created the office of the special trustee for American Indians. The holder reports directly to the secretary of the interior, a fact not lost on the position's critics.

See also *Self-Determination*.

Randy Wagner

BIBLIOGRAPHY

Rave, Jodi, "Broken Trust: What to Change." *The Authentic Voice: The Best Reporting on Race and Ethnicity*, October 2, 2002, www.theauthenticvoice.org/BrokenTrust_WhatHasToChange.html.

Wooley, John and Gerhard Peters. "Richard Nixon: Special Message to the Congress on Indian Affairs," *The American Presidency Project*, www.presidency.ucsb.edu/ws/index.php?pid=2573&st=indian&st1=.

Indian Vocational Training Act (1956)

The Indian Vocational Training Act of 1956 was intended to achieve two objectives: (1) create a skilled labor force that would attract industry on or near reservations, and (2) prepare individual Indians for employment off of the reservation with specialized job training. During the termination era of the late 1940s through the early 1960s, efforts were made by the federal government to end financial support for Indian programs and make Native Americans and their communities self-sufficient. In 1953 House Concurrent Resolution 108 allowed for the end of government-tribal relations and services as part of congressional initiatives to downsize the federal government. The U.S. government not only wanted to enhance economic opportunities for individual Indians on reservations, it also encouraged reservation Indians to move into large cities in an effort to integrate them into the economy and minimize government trust responsibility toward the tribes. During these early relocation initiatives, the Bureau of Indian Affairs provided limited job-placement assistance.

The Indian Vocational Training Act was passed on August 3, 1956. Section 2, "An Act Relative to Employment for Certain Adult Indians on or Near Indian Reservations," was intended to give reservation Indians, ages eighteen to thirty-five, "vocational counseling [and/or] institutional training in any recognized vocation or trade, apprenticeship, and on the job training" in order for them to obtain "reasonable and satisfactory employment." Training was in trade labor for men and clerical or beautician skills for women. Transportation to, and subsistence during, the course was allocated for up to two years.

Legislation authorized the secretary of interior, through the Bureau of Indian Affairs, to enter into contracts with federal, state, or local governmental agencies, or with any private vocational school, which was recognized by industry and labor groups as leading to skilled employment. For each fiscal year, \$3,500,000 was appropriated, with a maximum of \$500,000 for administrative purposes. Congress amended this legislation in 1961, doubling funding for training programs and administration and placing the program under the authority of the new Office of Economic Opportunity.

See also *Employment, Regulation of; Relocation Program; Termination and Restoration*.

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BIBLIOGRAPHY

Fixico, Donald L. *Termination and Relocation: Federal Indian Policy, 1945–1960*. Albuquerque: University of New Mexico Press, 1990.

Indian Wars

See *United States–Indian Wars (1775–1848)*; *United States–Indian Wars (1848–1891)*.

“Indians Not Taxed”

The phrase “Indians not taxed” appears twice in the U.S. Constitution. Article I and the Fourteenth Amendment, ratified after the Civil War, state how representation in the House of Representatives shall be apportioned among the states. In both places, “Indians not taxed” are excluded from the population that counts for purposes of apportionment.

The constitutional provisions were not a grant of a tax exemption, but recognition of the then-existing status of tribal Indians. At the time the provisions were ratified, neither Indian tribes nor their members were subject to state or most federal taxes. Individual Indians who had left their tribes, severed their tribal relations, and joined non-Indian communities were subject to ordinary taxes. Thus “Indians not taxed” referred to Indians who maintained their tribal relations.

Over the course of the late nineteenth and early twentieth centuries, federal laws—culminating in the Indian Citizenship Act of 1924, which naturalized all Indians as U.S. citizens—undercut the nontaxable status of Indians. Supreme Court cases in the 1930s held that Indians were generally subject to federal tax laws, and in 1940 an opinion by the solicitor of the Department of the Interior concluded that there were no longer any Indians who could be considered “Indians not taxed” under the Constitution.

See also *Constitution, U.S.*; *Citizenship: United States and States*; *Indian Citizenship Act (1924)*; *Taxation*.

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BIBLIOGRAPHY

Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, NJ: LexisNexis 2005. Suppl. 2007.

Pevar, Stephen L. *The Rights of Indians and Indian Tribes: The Basic ACLU Guide to Indian and Tribal Rights*. 3rd ed. Carbondale: Southern Illinois University Press, 2002.

Indians of All Tribes

On November 9, 1969, the group Indians of All Tribes occupied Alcatraz Island in San Francisco Bay, a site historically used by Native Americans, for several hours. The alliance, led by Richard Oakes, consisted of fourteen American Indian college students, and their goal was the symbolic reclamation of the island for Native people.

On November 20, 1969, Oakes returned to Alcatraz for nineteen months with approximately one hundred Native American activists. Most were Indian youth from reservations, urban centers, and universities. They formed a governing council, issued a list of demands, and established a newsletter and radio show to publicize and explain their actions to the public. The group demanded the island's conversion into a cultural hub to include a center for Native American studies, an American Indian spiritual center, an Indian center of ecology, a training school to teach Indians how to live in an urban environment, and an American Indian museum. Negotiations proved ineffective, as the federal government was unwilling to accede to demands and the group was unwilling to compromise.

The faction's cohesiveness began to deteriorate by early 1970. Opposition arose to Oakes's leadership, and others chose to return to college. Oakes left the island after his young daughter died in a fall, and, with his absence, what organization remained quickly disintegrated, as did living conditions on the island. On June 10, 1971, federal forces removed the remaining fifteen occupiers from the island.

The group's occupation of Alcatraz publicized the federal government's violation of treaty rights and tribal sovereignty, as well as the wrongful taking of Native American land. It served as a protest against the termination program that had disestablished 109 Indian reservations.

See also *Alcatraz Island, Seizure of (1969)*; *American Indian Movement (AIM)*; *Oakes, Richard*.

Troy R. Johnson

BIBLIOGRAPHY

Cornell, Stephen. *The Return of the Native: American Indian Political Resurgence*. New York: Oxford University Press, 1988.

Johnson, Troy R. *The Occupation of Alcatraz Island: Indian Self-Determination and the Rise of Indian Activism*. Champaign: University of Illinois Press, 1996.

Nagel, Joan. *American Indian Ethnic Renewal: Red Power and the Resurgence of Identity and Culture*. Lincoln: University of Nebraska Press, 1996.

Smith, Paul Chaat, and Robert Allen Warrior. *Like a Hurricane: The Indian Movement from Alcatraz to Wounded Knee*. New York: New Press, 1997.

Inouye, Daniel

Daniel Inouye (1924–), Democratic senator from Hawaii, is the first American of Japanese descent to serve in Congress and one of the foremost champions of Native American causes on Capitol Hill.

Born to Japanese immigrants in Honolulu, Inouye faced grinding poverty and racial discrimination as a young man. During World War II (1939–1945) he volunteered for service in the 442nd Regimental Combat Team, earning the Distinguished Service Cross and later the nation's supreme military honor, the Congressional Medal of Honor. Inouye's dream of becoming a surgeon ended when he lost his right arm in combat. When he returned to Hawaii, he became a lawyer and entered politics, winning seats in the Territorial Legislature in 1954 and the Territorial Senate in 1958. Voters elected Inouye Hawaii's first congressman in 1959 and a U.S. senator in 1962. The new legislator, a liberal Democrat, worked closely with President Lyndon Johnson on the passage of the landmark Civil Rights Act of 1964. Inouye gained national recognition in the 1970s for serving on the Senate Watergate Committee and in the 1980s as chair of the Iran-Contra hearings.

Inouye's work on Indian issues began in 1977 with an appointment to the temporary committee on Native Americans that became the Senate Committee on Indian Affairs. Working with a dynamic staff led by legislative assistant Dr. Patricia Zell, Inouye became aware of government-Indian relations for the first time and became determined to secure justice for indigenous groups. Preferring compromise over conflict, Inouye has worked closely with Indian leaders and across party lines to promote Native American causes.

While serving as chair of the Senate Committee on Indian Affairs between 1987–1995 and 2001–2003, Inouye achieved the passage of a series of legislative acts that benefited Native Americans. He cosponsored the Indian Gaming Regulatory Act of 1988 that provided a statutory basis for the gaming industry and preserved tribal rights to operate casino-style facilities. With Republican senators Ben Nighthorse Campbell and John McCain, Inouye helped pass the Native American Graves Protection and Repatriation Act of 1990, secured the renewal of the Indian Self-Determination and Education Assistance Act of 1975, and sponsored a law that created the National Museum of the American Indian. Inouye also drafted bills designed to reform the controversial Federal Acknowledgment Process for unrecognized tribes and supported the Lumbee tribe of



Sen. Daniel Inouye (D-Hawaii) is a champion of Indian rights, determined to secure social justice for indigenous groups. He served as the chair of the Senate Committee on Indian Affairs and cosponsored the 1988 Indian Gaming Regulatory Act.

North Carolina in its effort to secure recognition. He is also credited with raising the stature of the Senate Committee on Indian Affairs during his long tenure.

The Japanese American senator has consistently championed self-determination and sovereignty for all aboriginal peoples. Beginning in the 1980s, Inouye advocated restoring Native Hawaiian government and sponsored laws for the benefit of aboriginal islanders, including the Native Hawaiian Education Act of 1988 and the Native Hawaiian Health Care Act of that same year. He spearheaded action that ended the U.S. Navy's use of Kaho'olawe Island for weapons testing and restored it to the people of Hawaii. In light of Inouye's work on multiple Native American causes, he has become known affectionately as "every tribe's senator."

See also *Congressional Committees on Indian Affairs; Indian Gaming Regulatory Act (1988); Indian Self-Determination and Education Assistance Act (1975); Native American Graves Protection and Repatriation Act (1990); Native Hawaiians; Tribal Acknowledgment (Federal).*

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BIBLIOGRAPHY

Daniel Inouye, Senate Web site, <http://inouye.senate.gov>.
 Inouye, Daniel. *Journey to Washington*. Englewood Cliffs, N.J.: Prentice-Hall, 1967.

Interior, U.S. Department of the

The Department of the Interior (DOI) oversees the management of federal lands, primarily the public lands that were carved out of the western half of the continent when many Native American nations were relocated to reservations in the nineteenth century. DOI agencies administer 28 percent of the United States' total land mass and a large portion of the federal budget. The offices of the DOI affect U.S. policy involving Native American lands in myriad ways, from dealing with tribal governments on mining issues to negotiating cooperative relationships to operate national parks and monuments. Perhaps most important, since its creation the DOI has housed the Bureau of Indian Affairs (BIA), the central institution for implementing U.S. Indian policy.

The DOI and the BIA hold a sweeping congressional mandate over Indian individuals who live on reservations and over the 55.7 million acres of land and the attached resources in Indian Country. The DOI's mandate is the product of Congress's plenary (or complete) power over Native nations, as interpreted from the U.S. Constitution's commerce clause. That assertion of power has not always been uniformly accepted by Indians and often is a source of controversy. Among Native Americans, views range from rejection of the DOI's role to full participation in programs operated by the department. U.S. officials and politicians also periodically have questioned the reasonableness of government involvement in Indian affairs, most notably during the termination era in U.S. policy in the 1950s, when some conservatives sought to end federal support for Indian programs.

History and Structure

The DOI's origins go back to the federal factory trading system, which was created in 1795 within the War Department. This effort was initially designed to create and maintain the allegiance of Native nations during a time of conflict between the United States and Britain, by regulating trading and providing trade goods to Indians at cost. In 1824 John C. Calhoun, the secretary of war, established a "Bureau of Indian Affairs" within his department. The first director of the bureau, Thomas L. McKenney, referred to the bureau as the "Office of Indian Affairs" or OIA. In 1832 Congress

authorized the president to appoint a Commissioner of Indian Affairs to supervise Indian relations.

The OIA was moved to the Department of the Interior when the DOI was formed in 1849 at the recommendation of the secretary of the treasury, Robert J. Walker, who did not believe that his department could manage the nation's vastly increased federal lands. The DOI's mission was to handle matters that were internal to the United States, which initially meant subsuming, among other offices, the OIA from the War Department. From that point forward, the DOI and its subagency, the OIA, played the central role in the implementation of federal Indian policy.

The creation of the DOI coincided with the United States' growing focus on moving Native Americans to defined land bases under the reservation policy. Reservations were designed not only to confine Native people, but also to eradicate their indigenous cultures and prepare them for assimilation. The OIA was the predominant administrator of that policy by controlling the food supply, enforcing U.S. provisions that made Native spiritual practices illegal, undermining and eradicating traditional governments, training Native people to use Euro-American farming and house-keeping methods, creating tribal police forces and courts, designating where people could live, and turning Native children over to church-run missions for their education.

The DOI's early years were characterized by lackluster leaders who held short terms and provided little authority. Few of them cared about Indian affairs. One exception was Carl Schurz, who served from 1877 to 1881 and was best known for his efforts to conserve public lands and resources. Schurz also worked to end corruption in the department, particularly among OIA representatives at Indian agencies. Because of the concerns about corruption and because of the fears that Indian relations were unduly politicized, in the late 1860s and 1870s officials in the War Department attempted to regain authority over Indian affairs. The DOI, however, retained control of that area of its jurisdiction. In the early 1900s, the DOI's image was tarnished by the "Teapot Dome" scandal, which led to the conviction of Albert Fall, the department's secretary, on charges of bribery.

U.S. Indian policy changed dramatically during the New Deal era, thanks to the cooperation of Harold Ickes, secretary of the DOI, and John Collier, the commissioner of Indian affairs. Ickes served as Secretary of the Interior from 1933 to 1946, a lengthy tenure in a difficult job, and made one of his missions the reformation of U.S. Indian policy.

Collier, who served for a similar length of time and who brought with him radical ideas about how to transform federal policy, worked closely with Ickes and the DOI. During their service, often referred to as the “Indian New Deal,” Ickes and Collier persuaded Congress to abandon the long-standing allotment policy; worked to promote respect for Native cultures, traditions, and artistic rights; and, with the Indian Reorganization Act of 1934, attempted to give tribal nations more autonomy over their political and economic interests.

In 1947 the OIA became known officially as the Bureau of Indian Affairs. At around the same time, a major challenge emerged that threatened to eliminate BIA oversight of U.S. Indian relations. In the late 1940s some members of Congress attempted to move the government toward a policy of “termination,” in which the federal government would gradually abandon its special relationship with Native Americans and Indian tribes; end federal support for health-care and education and other programs; and, eventually, abolish tribal governments. It was thought by some that termination was designed to put the BIA out of business.

Beginning in the 1960s, because of the failures in the attempts to terminate the Klamath and Menominee tribes and as a result of the activism by Native American leaders, the United States began turning away from termination and moving toward a policy of supporting the expansion of tribal autonomy or “self-determination.” Tribal governments and individuals increasingly asserted their rights to sovereignty over their lands and lives, and the BIA transitioned from an agency that managed or directed tribal governments to one that provided assistance and advice to help tribes become, if not completely sovereign, then at least more self-sufficient and autonomous. The bureau increased the number of Indians employed at all levels of the department and tried to improve communication and cooperation with the tribes. Although conditions on reservations and the level of autonomy for tribal governments have improved for Indians since the termination era, Native individuals and tribal governments still continue to work to regain control over their lands and resources.

Challenges for the DOI

Because of the nature of the DOI’s jurisdiction, internal conflicts developed between the BIA’s obligation to protect Native interests and the DOI’s policy of promoting the sale of resources located in Indian Country to non-Native interests. The most prominent of these resources have been tim-

ber, coal, uranium, water, grazing lands, and oil. The DOI has approved contracts for the extraction of mineral, forest, and water resources that were clearly not in Indians’ best interests. These contracts were often long-term and covered huge acreages, which prevented adjustments as market prices or land use plans changed. These conflicts of interest intensified in the 1970s, when the “energy crisis” put additional pressure on the DOI to extract resources. Tribal governments lacked political influence in Washington and had no environmental regulations, making their lands attractive targets for corporations seeking low-cost resources.

Conflicts of interest also have been common in the context of water policy. Here, the conflict is often between the BIA and other DOI agencies, particularly those administering public lands adjacent to Indian country. For example, the Bureau of Reclamation, another DOI agency, was created in 1902 to harness water and encourage agriculture in the western states. It condemned large portions of a number of reservations to create dams and reservoirs and forced the BIA to relocate Indians out of their path.

Conflicts also have arisen between the DOI and other federal departments, including the Department of Defense and the Department of Agriculture. For instance, the Department of Defense has used Native land for testing conventional and nuclear weapons despite protests from Indian residents; activists; and, in some cases, BIA and OIA officials. In these conflicts, broad U.S. security interests typically have won out over Native property and environmental concerns.

In recent decades, Congress has removed the oversight of several Indian programs and relocated them to other bureaucracies in the government. Despite these restructurings, the department often still retains some influence over those areas of jurisdiction in indirect ways. For example, Congress removed the responsibility for healthcare from the DOI/BIA in 1955 and placed it with the Public Health Administration; however, the department still has control over reservation land bases and, therefore, has a final say on where healthcare facilities may be located.

The DOI also has had to deal with the legacy of the BIA’s past policies and actions. Since its founding, the BIA has been roundly and consistently criticized for its failure to protect Native American interests. This criticism has come from across the political spectrum, from Congress; the War Department (in the nineteenth century); the states; non-Indian reform and philanthropic groups; and, most consistently, the people whose interests the agency is supposed to protect. Throughout the twentieth century,

reservation residents were the most economically deprived people within the United States, and many have blamed the BIA for that fact.

Recent Developments

Until 1977 the person heading the BIA was called the Commissioner of Indian Affairs. That year, the position was upgraded in rank to increase the prominence of issues involving Native Americans within the DOI. The first person to fill the new position of Assistant Secretary of the Interior for Indian Affairs was Forrest J. Gerard (Blackfeet), who served from 1977 to 1980. Since that first appointment the position has been held by Native Americans, including prominent leaders and scholars such as Ada E. Deer (Menominee) from 1993 to 1997 and Kevin Gover (Pawnee) from 1997 to 2001.

The DOI, through the BIA, makes critical decisions about which groups will be recognized by the United States as “tribes” and which lands will be recognized as “Indian Country.” Not all those groups who request recognition receive it; more than one hundred tribal groups are not “federally recognized” and thus are not generally eligible for BIA programs or subject to the trust doctrine. The question of acknowledgment is controversial because it affects who will have access to BIA programs and the right to the sovereign privileges available to tribes, such as gaming. Indian individuals who live off reservations are also not considered the BIA’s responsibility, but they may be affected by its decisions if they hold tribal membership or have other land rights.

The DOI’s interest in U.S. Indian policy has been focused most recently on its role as land manager and in the BIA’s trust responsibility to the tribes. Through several presidential administrations and despite repeated court orders, the DOI and the BIA have been unable to account for Native assets. These assets were earned as a result of DOI leases of land and resources. Income from the leases was supposed to be held in the U.S. Treasury for the individual Indians and Native nations that owned the leased properties. However, a 1994 study found that no documents could be located for \$2.4 billion worth of transactions involving individual Indians, and hundreds of millions more had perhaps been handled improperly.

In 1996 a class action lawsuit was filed on behalf of 300,000 Native individuals by the Native American Rights Fund against the U.S. government and, in particular, the Departments of Interior and the Treasury. Known as the “Cobell litigation” after the lead plaintiff, the defendant’s

name has changed with the arrival of each new secretary of the interior. To date, court decisions have supported the plaintiff’s claims.

Despite this complicated history, most Native Americans and tribal governments still want to preserve their relationships with the DOI and the federal government. Reservation lands are the last vestiges of Native nations’ land bases and, as such, have great historical, spiritual, and economic significance; the DOI has played a role recently in protecting and even expanding those land holdings. Since the passage in 1975 of the Indian Self-Determination and Education Assistance Act, the DOI either directly provides or helps administer much of the funding necessary for reservation operations through contracts and compacts with tribal governments. For some tribes these agreements are necessary to exercise real self-determination by providing funding for tribal courts, social services, schools, roads, and law enforcement.

Although Native governments are not yet completely independent of federal oversight and support, there has been true progress in removing the BIA and the DOI from deleterious control over reservation lives and lands. Most tribal governments now have enough administrative capacity to challenge unfavorable federal legislation, operate according to their chosen values and traditions, hold off state intrusions into their affairs, and enforce their treaty rights. The DOI and BIA have, in recent decades, been cognizant of the need to further the transition toward self-determination. Considering the fact that some 50 years ago the United States’ policy was to eradicate the federal relationship with the tribal nations, it is fair to say that the role of the DOI in Indian policy has become more supportive of Indian self-determination than it was in the late nineteenth and early twentieth centuries.

See also *Assimilation and Acculturation; Bureau of Indian Affairs; Calhoun, John C.; Cobell Litigation; Collier, John; Dams and Hydroelectric Power; Deer, Ada E.; Factory System; Fall, Albert B.; Gerard, Forrest J.; Gover, Kevin; Ickes, Harold L.; Indian Reorganization Act (1934); Indian Self-Determination and Education Assistance Act (1975); McKenney, Thomas L.; Meriam Report; Mining and Mineral Rights; Native American Rights Fund; Oil and Gas; Plenary Power Doctrine; Removal; Reservations; Schurz, Carl; Self-Determination; Termination and Restoration; Trail of Broken Treaties; Tribal Acknowledgment (Federal); Trust Responsibility Doctrine; War, U.S. Department of; Water Rights.*

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BIBLIOGRAPHY

- Ambler, Marjane. *Breaking the Iron Bonds: Indian Control of Energy Development*. Lawrence: University Press of Kansas, 1990.
- Barsh, Russel Lawrence, and James Youngblood Henderson. *The Road: Indian Tribes and Political Liberty*. Berkeley: University of California Press, 1980.
- Carlson, Leonard A. *Indians, Bureaucrats, and the Land: The Dawes Act and the Decline of Indian Farming*. Westport, Conn.: Greenwood Press, 1981.
- Deloria, Vine, Jr. *Behind the Trail of Broken Treaties*. New York: Dell Publishing Co., 1974.
- Deloria, Vine, Jr., and Clifford Lytle. *The Nations Within: The Past and Future of American Indian Sovereignty*. New York: Pantheon Books, 1984.
- Fixico, Donald L. *The Invasion of Indian Country in the Twentieth Century: American Capitalism and Tribal Natural Resources*. Niwot: University of Colorado Press, 1998.
- Harvard Project on American Indian Economic Development. *The State of the Native Nations: Conditions Under U.S. Policies of Self-Determination*. New York: Oxford University Press, 2008.
- Jarding, Lili Jones. "The Department of the Interior's Appeals Process and Native American Natural Resource Policy: 1970–1994." *Policy Studies Journal* 27 (1999): 217–241.
- Marks, Paula Mitchell. *In a Barren Land: American Indian Dispossession and Survival*. New York: William Morrow and Company, 1998.
- McDonnell, Janet A. *The Dispossession of the American Indian*. Bloomington: Indiana University Press, 1991.
- Wilkins, David E. *American Indian Politics and the American Political System*. Lanham, Md.: Rowman and Littlefield Publishers, 2002.
- Wilkinson, Charles. *Blood Struggle: The Rise of Modern Indian Nations*. New York: W. W. Norton and Company, 2005.

International Indian Conference of 1843

When the United States forcibly relocated eastern tribes to Indian Territory, it created an extremely complex and potentially volatile situation. Indian nations with little history of cooperation now shared borders, while tribes who had long resided in the region, such as the Osages, resented the presence of the newcomers. Hoping to avoid conflict and promote peaceful relations, leaders of the Five Tribes that were originally located in the Southeast, in particular the Creeks and Cherokees, hosted a number of intertribal councils in the 1840s. United States officials often participated in these councils, anticipating that the leaders of the removed tribes might help them conduct relations with the Indian peoples of the West.

One of the more famous of the meetings took place in the summer of 1843 in the Cherokee Nation. The Cherokee government invited tribes from throughout Indian Territory and the Plains to come to Tahlequah to establish peace and discuss their common affairs. Most of the Plains tribes stayed

away, but representatives of eighteen nations attended, among them the Creeks, Seminoles, Chickasaws, and Osage.

Opening the meeting, Cherokee chief John Ross spoke of a future in which Indians of all nations would cooperate as brothers. The delegates met off and on for four weeks, exchanging gifts and speeches and promising friendship. During this time, the Cherokee, Creek, and Osage delegates worked out a compact that became the basis for their future relations, particularly in the area of law enforcement. They agreed that a criminal who fled across tribal boundaries would be extradited to the nation where he committed his offense, and that citizens of one nation who entered another would be subject to the host nation's laws. All would work to suppress the liquor trade. The compact also included a promise that none of the signatories would cede land without the agreement of the others, a provision that may have surprised the federal Indian agents present.

Meetings between Native nations became a common occurrence in Indian Territory later in the century. For several years in the 1870s, tribal delegates held regular sessions of a territorial council at Okmulgee in the Creek Nation. Even after that council's demise, leaders of the Five Civilized Tribes met periodically to coordinate their opposition to American policies such as allotment. These councils left a substantial legacy of multitribal political cooperation.

See also *Ross, John; Indian Territory; Removal.*

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BIBLIOGRAPHY

- Debo, Angie. *The Road to Disappearance: A History of the Creek Indians*. Norman: University of Oklahoma Press, 1941.
- Moulton, Gary. *John Ross: Cherokee Chief*. Athens: University of Georgia Press, 1978.

International Law

The historical trajectory of international law in relation to indigenous peoples has undergone considerable variation in the approximately five hundred years since the "discovery" of the Americas by Christopher Columbus in 1492. Whereas public international law in the early twenty-first century lends itself to the support and protection of indigenous peoples and their demands to be recognized as distinct peoples with their own social and political institutions and cultural identity, for much of its history international law served to support the expansion of European states and the colonization of the New World, a process that occurred at the

expense of the integrity and viability of indigenous peoples and their ways of life. International law developed to facilitate and rationalize colonialism, particularly with the emergence of the modern state system in the seventeenth century and the ascendancy of the concept of the nation-state controlled by a centralized system of government. Contemporary ideas about indigenous rights, however, stem from the fifteenth and sixteenth centuries, when theology was of fundamental importance to writers on international law, and the natural rights and status of non-Christians figured prominently in discussions about the legality of the European colonizing venture.

The classical writings of Bartolomé de las Casas (1474–1566) and Francisco de Vitoria (1486–1547) are amongst the earliest concerned with the natural rights of indigenous peoples and associated with the early development of international law. In his *Brief Account of the Destruction of the Indies* (1552), Las Casas related the atrocities committed by Spanish colonists against the indigenous peoples of the Americas—particularly the brutality of the *encomienda* system that enslaved local Native populations—and advocated for the rights of Indians within a naturalistic framework derived from God. In a series of lectures given from 1526–1533, Vitoria held that all peoples had rights that states were bound to respect, citing God and basic humanity as sources of higher legal and moral authority, and rejected the doctrine of discovery and the papal grant as bases for Spanish rule over Indian lands in the Western hemisphere. He did, however, establish that Europeans might legitimately gain title and authority over Indian lands following a “just” war, invasion and conquest becoming justifiable in cases where Indians denied others the right to travel and sojourn on their lands, obstructed commerce and trade, or hindered Spanish efforts at conversion. Vitoria also considered that the administration of Indian lands by the Spanish could be for the Indians’ own benefit. In this respect, he viewed the indigenous inhabitants of the Americas as benefiting from the tutelage of civilized Europeans.

While many in Renaissance Europe affirmed the rights of indigenous peoples by appeal to their natural rights derived from God or humanity, with the emergence of the modern state system in Europe there came about a transformation in naturalist thinking that hindered assertions of the sovereignty and autonomy of Indians. This period is usually traced back to the 1648 Peace of Westphalia, the treaty that ended the Thirty Years War (1618–1648). Natural law then developed into a dichotomous regime comprised of the

rights of individuals and the rights of nation-states. This in turn led theorists to create a body of law based on the precept of universality but concerned exclusively with nation-states. They called this body of principles the Law of Nations. One of the best-known theorists was Swiss philosopher and diplomat Emerich Vattel (1714–1767), whose *Le Droit des Gens Nations* established the nation-state as the ideal form of human association and, moreover, recognized the right to self-government within this narrow context. Vattel’s work was influential in the development of international law and the practices of colonizing states. Consequently, from the mid-seventeenth century onwards, recognition of indigenous peoples’ sovereignty and of their rights to make treaties and cede authority and territory depended upon whether European colonizers acknowledged or respected their form of political organization. European theorists expected nations to have a centralized, hierarchical (ranked) system of authority that exerted control over its territory. The belief that humans had a natural duty to cultivate the soil, drawn from the Old Testament and integrated into English common law, was particularly influential in areas of English settlement and was used as a justification to dispossess Natives of their land. The idea was also implicit in Vattel’s work on the law of nations. English philosopher John’s Locke’s 1690 publication, *Two Treatises of Government*, argued that the doctrine of discovery could validate the appropriation of the lands of wandering Indian tribes not involved in agricultural production. Such ideas were particularly influential in areas coming under English settlement and were implicit in Vattel’s work, compounding considerations of indigenous states.

Vattel’s version of international law influenced Chief Justice John Marshall in a number of early United States Supreme Court judgments on the status of the American Indians. In 1823, in the case of *Johnson v. M’Intosh*, Marshall held that when the United States defeated Great Britain in the American Revolutionary War (1775–1783), it had succeeded to the latter’s doctrine of discovery title. In one section of the opinion, Marshall described Indians as “fierce savages” and declared that “to leave them in possession of their country was to leave the country a wilderness.” In *Cherokee Nation v. Georgia* (1831), Marshall refused to grant an injunction to stop the state of Georgia from extending its jurisdiction over Indian lands. He described the Indian tribes not as foreign states but as “domestic dependent nations.” A year later, in *Worcester v. Georgia* (1832), Marshall designated tribes as “nations,” recognized their treaty-making powers,

and upheld their “original natural rights, as the undisputed possessors of the soil, from time immemorial.”

Following Marshall’s decisions, Western international legal theorists came increasingly to embrace a conception of legal positivism in the development of international law. Four principles entered into international law, turning it into a tool that could justify colonialism. The first premise was that international law was concerned solely with the rights and duties of states, which were defined narrowly in the European mold. The second premise was that only existing states could admit a new society into the community of nations. The third premise was that a state held exclusive jurisdiction or sovereignty over its domestic or internal affairs. Finally, the fourth premise was that international law was created by the states themselves; the foundations of international law, in other words, did not originate with God or natural law.

This interpretation of international law flourished from the mid-nineteenth century and was used to justify the expansion of the colonizing powers over indigenous societies. In the United States, this was a period in which indigenous peoples, denied statehood and therefore the right to benefit from the protection of international law, witnessed not only the gradual diminution of their territories and their appropriation by white settlers, but also an end to the practice of concluding treaties with Indian tribes, declared by Congress in 1871. Native Americans were also subject in this period to widespread policies and practices of assimilation, including the removal of Native children to boarding schools and, under the General Allotment Act (Dawes Act) of 1887, the breaking up of reservations into individual allotments. Policies of assimilation, though often framed in terms of humanistic intention, led rapidly to the diminishment of the status of Indians as autonomous peoples. Reflecting an international consensus based on the need to introduce civilization to Natives, the notion of so-called trusteeship became part of international law in the 1880s, first with the Berlin Conference on Africa in 1885 that saw the imperial powers agree on the care and instruction of Natives, and culminating in the adoption of the 1919 Covenant of the League of Nations, which undertook “to secure the just treatment of the native inhabitants of territories under their control.”

It is in the context of legal and institutional changes occurring after World War II (1939–1945) that international law developed in a direction favorable to the rights of indigenous peoples. During this era an extension of the

scope of international law occurred that incorporated individuals as subjects of international norms, as, motivated by the horrors of the Holocaust, the United Nations (UN) moved to elaborate an international human rights regime. Flexible, shifting, and responsive, this system evolved dramatically during the latter part of the twentieth century and by the early twenty-first century protects innumerable subjects under international law, including American Indians.

The new human rights era of international law, however, did not at first engender the protection sought by indigenous peoples. In 1957 a specialized agency of the UN, the International Labor Organization (ILO), adopted Convention No. 107, Concerning the Protection of Indigenous Populations within Independent Countries. The aim of the convention was the gradual integration of indigenous individuals into national societies and economies. Reflecting evolutionary thought, it failed to provide a source of rights for Natives seeking to maintain their distinct cultural identities and associations. It was revised in 1989 in the context of growing indigenous mobilization within and around the UN system. ILO Convention No. 169, Concerning Indigenous and Tribal Peoples in Independent Countries, contains provisions advancing cultural and institutional integrity, land and resource rights, and nondiscrimination in social welfare. It does not, however, recognize a right of indigenous peoples to self-determination, which is the central principle and main claim of the international indigenous movement. Moreover, the use of the term “peoples” is qualified and does not carry connotations as regards the rights that may attach to the term in international law. International law in Article I of the UN International Human Rights Covenants states that “all peoples have the right to self-determination.” ILO No. 169 has not been ratified by the United States.

Within the context of the human rights organs of the UN, the production of a UN Declaration on the Rights of Indigenous Peoples has been ongoing since the mid-1980s. Involving independent human rights experts, state delegates, and the representatives of indigenous peoples’ organizations and peoples, it has evolved in a number of stages. The first was between 1985 and 1993, when the UN Working Group on Indigenous Populations, a group of independent human rights experts, formulated the Draft UN Declaration on the Rights of Indigenous Peoples of 1994. The second stage, from 1996 to 2006, saw a change in institutional context as the draft declaration was diverted into a governmental working group comprised of the representatives of fifty-three

states. In 2006 the newly constituted UN Human Rights Council adopted the UN Declaration on the Rights of Indigenous Peoples, following which the text was submitted to the sixty-first session of the General Assembly. Finally, in September 2007, the General Assembly adopted the UN Declaration on the Rights of Indigenous Peoples by a vote of 143 in favor, with four against and eleven abstentions.

The declaration, which has been welcomed by Native leaders and representatives, recognizes the right of indigenous peoples to self-determination, in addition to enumerating a range of rights protecting indigenous peoples' social, political, legal, and cultural institutions; lands; and territories. Four UN members that voted against the declaration—Australia, Canada, New Zealand, and the United States—have large indigenous populations. Objections of the so-called CANZUS states focused in particular on the right to self-determination, which they argue implicates issues of state sovereignty and territorial integrity. It is also a matter of speculation as to whether or not states intend to abide by the declaration following its formal adoption. The declaration will constitute a form of “soft” law, meaning law that is not actually binding on states, as will the proposed American Declaration on the Rights of Indigenous Peoples, still under negotiation as of 2008 by the Organization of American States (OAS).

See also Cherokee Nation v. Georgia (1871); *Comparative Indigenous Policies; Conquest, Doctrine of; Discovery, Doctrine of; Johnson v. M'Intosh* (1832); *Just War; Marshall, John; United Nations; Worcester v. Georgia* (1832).

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BIBLIOGRAPHY

- Anaya, James. *Indigenous Peoples in International Law*. New York: Cambridge University Press, 1996.
- De las Casas, Bartolomé. *A Short Account of the Destruction of the Indies*. London: Penguin, 1992.
- Lam, Maivan Clech. *At the Edge of the State: Indigenous Peoples and Self-Determination*. Ardsley, N.Y.: Transnational Publishers, 2000.
- Pritchard, Sarah. *Indigenous Peoples, the United Nations, and Human Rights*. London: Zed Books, 1998.
- Thornberry, Patrick. *Indigenous Peoples and Human Rights*. Manchester, UK: Manchester University Press, 2002.
- United Nations Human Rights Council. *Establishment of a Working Group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of the General Assembly resolution 49/214 of 23 December 1994*. 2006.
- United Nations International Labor Organization. *ILO Convention on Indigenous and Tribal Peoples in Independent Countries*. 1989.
- Williams, Robert A. *The American Indian in Western Legal Thought: The Discourses of Conquest*. New York: Oxford University Press, 1990.

Intertribal Relations

Native American societies have always interacted with each other in order to satisfy needs and achieve objectives. The form of those relations has varied over time due to the changing circumstances of the social environment. Over the last two centuries, Native societies have often had to cooperate with each other to accommodate or confront the United States.

Prehistoric Intertribal Relations

For thousands of years, Native American societies have engaged in a complex network of economic, political, and social relations. Economically, indigenous societies engaged in trade relations through trading centers and rendezvous sites that extended coast to coast and into Mesoamerica. Economic exchange networks linked communities and provided avenues for the diffusion of ideas and traditions.

Prior to the arrival of Europeans, confederacies such as the Iroquois Great League of Peace, numbering thousands of peoples, also emerged across the continent. Sociologically, members from one society often married outside of their own society, cementing important kinship ties. Linguistically, cross-cultural languages and trade dialects evolved to enable communication across tribal boundaries. Ceremonies and rituals also created intertribal bonds. The calumet (pipe) ceremony, for example, was widely adopted by many Great Plains tribes living along or near the Missouri river to create fictive kin relations with other societies and to cement political, economic, and social relations. Across Native North America, a vast, complex network of intertribal relationships often reshaped the cultural landscape. Many of those social mechanisms influenced the ways in which indigenous societies interacted with Europeans after their arrival in the New World.

Historic Intertribal Relations

The arrival of Europeans and their colonization of North America significantly altered intertribal relations, influencing not only how indigenous societies reacted to the newcomers, but also how they behaved toward each other. European colonial powers, wanting to secure and expand their political and economic positions in the New World, interacted with indigenous peoples in ways that produced a variety of responses. The expanding European fur trade, for example, acted as a catalyst for intertribal exchange and alliances. It also sometimes created intertribal conflicts as indigenous societies sought trading advantages or new resources, or

fought against each other as allies of a particular colonial power. The introduction of material cultural items of European origin also affected intertribal relations. One item, the horse, accelerated tribal contact while another, the gun, made conflicts between societies more deadly.

Many indigenous societies disappeared completely due to warfare or infectious diseases against which they had no natural immunity. The remnants of decimated societies sometimes came together to form new ones. Some scholars have theorized that the Choctaws and Catawbas, among others, were examples of this kind of social integration. Other indigenous societies incorporated Europeans and African Americans, creating new ethnicities and identities. Tribes such as the Brotherton Indians of Wisconsin, the North Carolina Faircloth Indian Tribe, the California Kern Valley Indian Community, among many others, were a product of this kind of post-contact intertribal amalgamation.

After European contact, tribes continued to form intertribal alliances to resist indigenous neighbors and, now, European powers. In 1680, after years of Spanish domination, the Southwest Pueblo peoples united under a religious leader named Pope to expel the Spanish from the Rio Grande River region. In 1763 the Ottawa leader Pontiac created an alliance of Delawares, Ottawas, Wyandot-Petuns, Potawatomis, Ojibwes, Senecas, and others to resist the British. Shawnee leader Tecumseh and his brother, Tenskwatawa, attempted to unite numerous tribes in the Ohio and Mississippi valleys to halt American expansion during the early nineteenth century. Other confederations, such as the Blackfeet Confederacy, incorporated the Atsinas and Sarcees in response to the expansion of the fur trade and tribal hostilities.

By the late eighteenth and early nineteenth centuries, American Indian tribes had forged an identity known as pan-Indianism, the roots of which extended back into the pre-Columbian era. Pan-Indianism transcended particular tribal identities and offered an overarching cultural heritage shared among Native peoples across North America. The rapid loss of lands and resources, and military conflict with U.S. forces as American settlements continued to push farther and farther westward accelerated the interest of Indians in establishing pan-Indian ties. Military alliances were formed between tribes to resist U.S. expansion or to provide defense against mutual threats. The 1840 multitribal alliance between the Southern Arapahos, Southern Cheyennes, Kiowas, Comanches, and Plains Apaches became a formidable force that was able to, for a time, forestall American

expansion. Other Indian nations joined with the U.S. military to fight against historical Native adversaries.

Aside from political and military alliances, other mechanisms emerged to bond indigenous peoples by emphasizing their “Indianness.” Examples include prophetic religious movements such as Smohalla’s Dreamer religion in the 1850s, Squsachtun’s (John Slocum) 1881 Indian Shaker religion among indigenous peoples of the northern Pacific coast, and the spread of the Hedushka Dance among thirty tribes during the middle of the nineteenth century.

Early Reservation Intertribal Relations

After most indigenous societies were placed on reservations, intertribal relations continued to develop. Despite being largely confined and facing the loss of many cultural traditions due to forced assimilation, tribal communities still participated in many interethnic social and religious activities. Many indigenous societies for example, participated in the Ghost Dance of 1890. Later, many American Indians became adherents to the faith of the pan-Indian Native American Church. Powwows also promoted intertribal relations, and Indian agents promoted them in an effort to replace religious ceremonies. The Kiowas transferred elements of the Sun Dance, which was banned as a “heathenish practice” by the U.S. government, into the Gourd Dance, which spread among many tribes through the proliferation of intertribal powwows.

As American Indian societies continued to lose lands, resources, and cultural traditions due to forced assimilationist policies, multitribal organizations began to form around the end of the nineteenth century to resist these threats. A powerful motivation in the creation of supratribal unity was the policy of the U.S. government to place Indian children in boarding schools in an effort to “civilize” them. Children from various tribes were deliberately intermixed in the schools in an effort to break down their tribal identities.

In the nineteenth century, the pressure for reform of U.S. Indian policy had come primarily from “Friends of the Indian” organizations that were largely dominated by non-Indians. In April 1911, however, prominent American Indian leaders and intellectuals—including Charles Eastman, Carlos Montezuma, and Minnie Kellogg—organized the Society of the American Indian in Columbus, Ohio. The society, headquartered in Washington, D.C., sought to reform national Indian policy, provide better educational opportunities for Natives, and improve reservation conditions. Internal dissent over issues such as Indian administrative policies and peyote

use and arguments over representation eventually led to the society's demise, and the last conference was held in 1923. After the society dissipated, Gertrude Bonnin formed the National Council of American Indians in 1926.

In 1912 eleven Tlingits and a Tsimshian formed the Alaska Native Brotherhood in Juneau, Alaska. The brotherhood, along with the Alaska Native Sisterhood, fought for Native Alaskan civil, educational, and labor rights. In 1929, for example, they began a major legal case to reclaim lands and resources taken from the Tongass Forest in 1911 that had belonged to the Tlingits and Haidas. They eventually won the case in the 1950s and in 1965 received payment of \$7.5 million. The Alaska Native Brotherhood continues to be deeply involved in Alaska Native issues in the early twenty-first century.

In 1922 the Federation of Mission Indians was founded in southern California. Because of their open hostility to the United States government, fifty-seven members were arrested by the Department of Justice on conspiracy charges at the insistence of the Office of Indian Affairs. That same year, 123 Pueblo leaders from nineteen Pueblo tribes met at Santo Domingo to organize resistance to the Bursum Bill, which would have given non-Indian squatters land rights to Pueblo lands and resources. The unified effort resulted in the 1924 Pueblo Lands Act, which established the Pueblo Lands Board to resolve the tribe's land claims. Growing national public pressure to reform Indian affairs led the U.S. government to form a commission to address the issue in 1926. The commission's 1928 *Meriam Report* offered an indictment of Indian policies, revealing deplorable social, educational, and health conditions among Indian communities. This report and Native activism prompted a Senate investigation and policy reforms, such as the Indian Reorganization Act of 1934, which ended the policy of allotment and attempted to expand economic opportunities for Native Americans.

Indian New Deal

The passage of the Indian Reorganization Act signaled the end of a tragic colonial epoch for American Indians, but it also marked the beginning of another difficult period. Tribes continued to experience the legacy of the earlier policy era, including poverty, chronic unemployment, and rising health problems. All of these problems were intimately associated with underdevelopment of the reservation political economy. The goals of the intertribal organizations that attempted to deal with these issues varied, but most of them sought

better education, expanded social programs, and legal efforts to restore the Native land base.

World War II (1939–1945) and the postwar era altered the indigenous ethnic and political landscape. Many American Indians participated in the war and the urban defense industries. Returning Native veterans and workers arrived back in their communities with a broader vision of being Indian beyond their tribal identities. An intertribal urban Indian population was growing, with a broader perspective on Indian issues. Also during this period, the federal government began to move toward the termination of Indian treaty rights, which had a profound effect on Native nations across the country.

The focus of Indian activism had now shifted to preserving sovereignty and self-determination. In response to the emerging attack on tribal rights, in 1944 tribal leaders from twenty-seven states met in Denver, Colorado, and founded the National Congress of American Indians (NCAI). The NCAI's central mandates were to guard Indian rights, preserve cultural traditions, protect the integrity of reservation autonomy, and maintain and restore tribal lands. Since the organization's founding, it has actively lobbied the federal government and influenced decisions on a variety of issues. In 1946, for instance, it lobbied for the creation of the Indian Claims Commission. Later, the group helped shape the 1975 Indian Self-Determination and Education Act, and it still continues to work on behalf of tribes in the early twenty-first century.

As reservation leaders organized to address the challenges confronting their communities, other multitribal associations formed to address the concerns of the growing American Indian off-reservation and urban communities. On February 18, 1944, the Confederation of American Indians, composed of members from fifteen different tribes, held a powwow in New York City to acquaint non-Indians with aspects of Indian culture and raise funds for impoverished urban Indians.

Red Power

The 1950s marked the beginning of a major Native American civil rights movement. Initiated by federal efforts to dissolve the trust relationship that federally recognized tribes held with the U.S. government, intertribal organizations formed to resist this termination. In 1957, for example, the League of North American Indians formed to assist in mobilizing Native resistance against termination and the open assault on indigenous cultures. Many tribes developed regional coalitions, such as the Midwestern Inter-Tribal

Council, which was composed of tribal council members from Nebraska and the Dakotas.

As the federal government terminated tribes and withdrew treaty obligations, it began to offer job training programs. With the advent of Indian bureau employment training, the urban Indian population continued to grow, prompting the need for urban associations. On December 12, 1958, the Federation of Indian Tribes formed in Los Angeles to provide a reservation-style social atmosphere for city-dwelling Indians.

Inspired by the growing Civil Rights movement, by the early 1960s Native organizations and activism were growing at an accelerated pace due to termination and federal relocation efforts, Bureau of Indian Affairs' policies, and reservation social conditions. Taking a pro-active position, in 1961 the National Congress of American Indians, advised by anthropologist Sol Tax, held the Chicago Indian Conference. Sixty-seven tribes sent 420 representatives to the conference to set out a policy agenda. Also attending the conference was a group of uninvited young Indians, who openly challenged established Indian leaders, describing them as "sell outs" and "Uncle Tomahawks." The small group formed an independent caucus and drafted a manifesto titled *A Statement of Indian Purpose*, a declaration for open American Indian activism.

After the conference, Clyde Warrior of the Ponca tribe and others organized the National Indian Youth Council (NIYC), an intertribal group composed largely of young, urban Indians. The NIYC challenged the mainstream political approaches of other American Indian advocacy organizations. They offered an activist agenda embedded in ethnonationalism to confront and solve Indian problems. NIYC members conducted fish-ins to reassert treaty rights in Washington State and organized a march in 1964 on the state capital. These early efforts eventually led to the establishment of the Northwest Indian Fisheries Commission and to legal decisions that reaffirmed the historical treaty rights of Native Americans to fish in the Pacific Northwest. The NIYC also acted as the Indian coordinator in 1968 for the Poor People's Campaign and initiated lawsuits against uranium and coal mining operations during the 1970s and 1980s.

During the 1960s and into the early 1970s, American Indians continued to produce new forums for intertribal and pan-Indian communication. They established several publications, including *Akwesane Notes* by the American Indian Historical Society, and the *Indian Leader*, which was published by the Haskell Indian Nations Institute. In addition, numerous universities instituted Native American Studies

programs and some tribes established community colleges. In 1969 Indian college students in the San Francisco Bay area formed the Native American Student Union, which would be deeply involved in the occupation of Alcatraz Island from 1969–1971. After that incident, American Indians occupied at least sixty other government facilities to demand recognition of Indian rights. Many of these activists would become powerful forces in the American Indian Movement (AIM).

In July 1968 AIM was founded in Minneapolis, Minnesota. The organization initially dedicated itself to improving social services in urban Indian neighborhoods and halting local police harassment. The movement quickly evolved into a national civil rights organization, and AIM chapters spread across the United States. Members became involved in the struggle to return the Black Hills, the 1972 Trail of Broken Treaties, the 1973 occupation of Wounded Knee, the 1978 Longest Walk protest, and numerous other actions concerning indigenous rights. In 1974 the Women of All Red Nations formed to support and participate in AIM activities. On June 16, 1975, AIM held its national convention in Farmington, New Mexico, and declared the United States government, Western education, and Western religion enemies of Indian peoples. AIM continues to support Native issues in the early twenty-first century.

In January 1970, after considerable controversy and protest, Deganawidah-Quetzalcoatl University (DQ) was founded on a former military base near Davis, California. Six months later, the university's board, composed of Chicanos and Natives, attempted to incorporate DQ as a tax-exempt non-profit, pan-indigenous institution. This kind of activism created a broader sense of unity, linking reservation Natives with urban Indians and peoples with multiple heritages. The term "Native" began to extend across national boundaries. In 1963, for example, the Native American Movement, which originated in southern California, attempted to create unity among all peoples of Native ancestry, especially Indians and Latinos of North and South America. In northern California in 1968 the United Native Americans (UNA) organized to unify all persons of Indian blood throughout the Americas and work toward Native control of all Native affairs. The result was intertribal support for land claims from Alaska to California, a united front to end termination, activist efforts to promote land and resource rights, and a common goal to end the colonial oppression of indigenous peoples.

Other pan-Native associations formed around various issues. The National Indian Education Association organized

in Minneapolis, Minnesota, in November 1969 to improve the quality of Indian education. In March of 1970, Tewa anthropologist Dr. Alfonso Ortiz held the Convocation of Indian Scholars at Princeton University. The assembly, sponsored by the American Indian Historical Society, brought together Native scholars, Indian students, tribal leaders, and non-Native supporters to examine the opportunities and challenges currently facing American Indians. Using Ford Foundation financial support, in 1971 the California Legal Services extended itself nationally by founding the Native American Rights Fund (NARF) and establishing offices in Boulder, Colorado, and Washington, D.C. And in February of 1971, fifty tribal reservation leaders, fearing that only urban Indians and activists were shaping national Indian policy, met in Billings, Montana, to found the National Tribal Chairmen's Association to lobby Congress. The NCAI also remained in the forefront of Native American issues.

By the mid-1970s, the Red Power era had declined, but intertribal organizations continued to struggle for Native rights. Indian activism shifted to more legal mechanisms. In October 1971, for example, the Arctic Slope Native Association filed a suit claiming seventy-six thousand acres of land rich in oil that had been leased to private oil companies for \$1 billion by the State of Alaska. Later that year President Richard Nixon signed the Alaska Native Claims Settlement Act, which extinguished Native title to most of Alaska in exchange for forty-four million acres and approximately \$1 billion.

From 1975 to 1977, the American Indian Policy Review Commission traveled around the United States, holding hearings on the conditions confronting Natives. The hearings reaffirmed the passage of the 1975 Indian Self-Determination and Education Assistance Act, which remanded to tribes the ability to manage programs formerly controlled by the Bureau of Indian Affairs. While many intertribal organizations viewed the policy shifts as hard-won victories toward self-determination and sovereignty, others cynically saw them as self-termination, a process by which to carry out their own demise as separate peoples with little unity. Despite the differences of opinion, various intertribal organizations—local and international—continued the fight for indigenous rights.

Intertribal Relations into the Twenty-first Century

Over the last two decades, American Indians, Alaska Natives, Native Hawaiians, and other indigenous peoples have continued to fight for their interests on a variety of

fronts. Many of these issues are controversial and, on occasion, lead to conflict between Native American groups seeking to preserve their particular social, political, or economic interests.

In the early twenty-first century, Native peoples continue to form significant relationships that extend beyond tribal boundaries. Cooperation has become a global event, with Native Americans participating with other indigenous societies and non-Native ethnic groups from other countries on a variety of issues.

See also *Alaska Native Brotherhood (ANB) and Alaska Native Sisterhood (ANS); Alaska Native Claims Settlement Act of 1971; Alcatraz Island, Seizure of; American Indian Chicago Conference; American Indian Movement (AIM); Assimilation and Acculturation; Black Hills; Bursum Bill; Eastman, Charles; Indian Claims Commission Act; Indian Health and Healthcare; Indian Reorganization Act of 1934; Indian Self-Determination and Education Assistance Act (1975); Meriam Report; Montezuma, Carlos; National Congress of American Indians; National Indian Youth Council; National Tribal Chairmen's Association; Native American Rights Fund; Pueblo Lands Act; Self-Determination; Society of American Indians; Tecumseh; Tenskwatawa; Trail of Broken Treaties; Warrior, Clyde; Wounded Knee (1973), Occupation of.*

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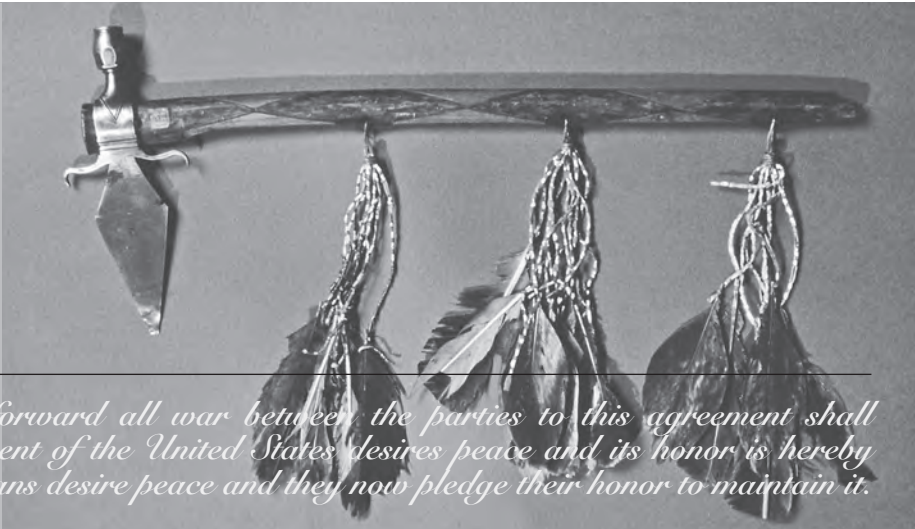
BIBLIOGRAPHY

- Champagne, Duane, ed. *Chronology of Native North American History: From Pre-Columbian Times to the Present*. Detroit, Mich.: Gale Research, Inc., 1994.
- Cornell, Stephen. *The Return of the Native: American Indian Political Resurgence*. New York: Oxford University Press, 1988.
- Fixico, Donald L. *Urban Indians*. New York: Chelsea House Publishers, 1991.
- Hertzberg, Hazel W. *The Search for American Indian Identity: Modern Pan-Indian Movements*. Syracuse, N.Y.: Syracuse University Press, 1971.
- Joseph, Alvin M. *Red Power: The American Indians' Fight For Freedom*. New York: McGraw-Hill Book Company, 1971.
- Maddox, Lucy. *Citizen Indians: Native American Intellectuals, Race & Reform*. Ithaca, N.Y.: Cornell University Press, 2005.
- Moody, Roger, ed. *The Indigenous Voice: Visions and Realities*. Volumes 1–2. London: Zed Books Ltd., 1988.
- Smith, Paul Chaat, and Robert Warrior. *Like a Hurricane: The Indian Movement from Alcatraz to Wounded Knee*. New York: New Press, 1997.
- Venables, Robert W. *American Indian History: Five Centuries of Conflict and Coexistence*. Volumes I and II. Santa Fe, N.M.: Clear Light Publishers, 2004.
- Wilkinson, Charles F. *Blood Struggle: The Rise of the Modern Indian Nations*. New York: W. W. Norton, 2005.

Iroquois, League of the

See *League of the Iroquois*.

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Article 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they now pledge their honor to maintain it.

Jackson, Andrew

Andrew Jackson (1767–1845), a general in the American military and the seventh president of the United States, dramatically influenced U.S. Indian policy. In 1830 Jackson pushed the Indian Removal Act through Congress, legislation that resulted in the relocation of almost all of the Indian tribes in the established states at that time to new territories west of the Mississippi River.

Development of a National Political Leader

Jackson was born three weeks after his father's death in the Waxhaw settlements on the border between the Carolinas. The American Revolutionary War (1775–1783) was a pivotal period for Jackson's development. After first serving as a courier in the Continental Army, he fought at the battle of Hanging Rock when only thirteen, was captured and held as a prisoner of war, contracted smallpox, and was permanently scarred by the sword of a British officer when he refused to clean the officer's boots. Jackson's mother left home to nurse sick and injured prisoners in Charleston and died there from cholera. Only a teenager at the end of the war, Jackson was left without a family, with little education, and no means of support. For much of the rest of his life he blamed the British for the destruction of his family, a fact that might have triggered his anger toward Indian tribes that allied with Great Britain.

After attempting to work as a teacher and saddle maker, Jackson moved to Salisbury, North Carolina, where he studied law under a local attorney and was admitted to the bar in 1787. He then moved to Nashville, in what would become the state of Tennessee, and ascended quickly

through the legal and political systems. He was named solicitor of the western district and handled a number of criminal and real estate title cases. After Tennessee was admitted into the Union, Jackson was elected as the first congressman for the state in 1796. In 1797 he was elected to the U.S. Senate, only to step down a few months later to become a member of the Tennessee Supreme Court (1798–1804). During the same period, he acquired an officer's position in the state militia that later boosted him to national renown. He was by this time a wealthy man who owned a plantation (the Hermitage) and a large number of slaves.

While Jackson first earned notice as an Indian fighter in Tennessee frontier skirmishes, he made his reputation during the War of 1812 (1812–1814). After the Red Stick Creeks, inspired by prophets to rid their country of white influences, attacked Fort Mims and killed most of its residents, Jackson organized the militia in Tennessee to exact revenge and put down the Red Stick rebellion. Jackson's army, which included volunteers from other southern states, entered the Creek Nation and fought a series of engagements, including victories at Tallussahatchee and Talladega. Jackson also acquired allies from Indian tribes in the Southeast, including those Creeks who opposed the Red Stick revitalization movement and wanted to maintain peaceful relations with the United States. Jackson's forces finally destroyed the Red Stick rebellion at the Battle of Horseshoe Bend on March 27, 1814. Thereafter, Jackson accepted a military commission as a general in the United States Army. As general, he dictated terms of a treaty with the defeated Creeks. The Treaty of Fort Jackson (1814) forced the Creeks to surrender well over twenty million acres to the United States, including the lands of Creeks who did not join the Red Stick uprising and even

a large parcel of Cherokee territory. Jackson then went south, where he led American forces to a victory over the British army outside of New Orleans that ended the War of 1812. His shocking defeat of the British force made him a national hero and helped propel him into consideration for national office. The Battle of New Orleans also galvanized confidence among the American public about the nation's power and destiny. After the failure of the Red Stick uprising and the suppression of Tecumseh's pan-Indian revolt in the Old Northwest, the United States no longer feared an Indian military threat in the East.

After the War of 1812, Jackson began to challenge the existing U.S. policy of treating the tribes as sovereign nations and dealing with them through treaties. Nonetheless, after the Creek treaty he turned to negotiating treaties with the other Indian tribes in the Southeast. In 1817 he concluded an agreement with a group of Cherokees who agreed to surrender territory for new lands in Arkansas. In 1818 he negotiated a treaty with the Chickasaws that resulted in the cession of all of their lands (approximately eight million acres) in Kentucky and Tennessee. Jackson employed bribes, the secret setting aside of special reserves for specific leaders, and coercion to reach these agreements.

In the late winter and early spring of 1818, Jackson led a campaign to end Creek and Seminole attacks on white settlements on the border between the United States and Spanish Florida (First Seminole War [1817–1818]). Jackson's forces chased the Seminoles into Florida and defeated them. Jackson also captured several Spanish towns, forced the Spanish governor to leave office, and caused an international controversy by executing two British subjects suspected of supplying the Indians. In the aftermath of the conflict, Spain agreed to sell Florida to the United States, an objective harbored by Jackson from the beginning of the campaign. James Monroe then named Jackson territorial governor of Florida. Jackson served for one year and then returned to Tennessee and was elected again to the U.S. Senate.

In 1824 Jackson ran for president of the United States. Although he captured a plurality of the popular and electoral votes, he did not win the necessary majority of electoral votes required by the U.S. Constitution. Thus, the House of Representatives was required by the Constitution to select the president. The House elected John Quincy Adams, and for the next four years Jackson waited to run again. In 1828 the American people elected Jackson as president on a platform of states' rights and Indian removal. As president, Jackson was noted for putting down the nullification rebel-

lion in South Carolina and refusing to renew the charter of the national bank. The "Age of Jackson" is marked by historians as a time when the right of political participation was expanded to a broader class of white men, but Jackson's presidency is increasingly being reexamined for the part he played in the removal of the Indian tribes.

Indian Removal

By the early 1820s, the expansion of the cotton economy in the South had increased the value of land that could be used to grow the crop, and the state of Georgia began to exercise political pressure on the federal government to force the Cherokee and Creek nations to cede their territories and relocate out of the state. The state was able to use the Compact of 1802, in which it had surrendered claims to its western territories to the United States in exchange for a promise that the federal government would at some future date extinguish the land title of the two tribes. The Creeks surrendered their territory in the 1826 Treaty of Washington, but the Cherokees refused to remove. That year, they ratified a republican constitution and declared once again that the Cherokee people comprised a sovereign, independent nation. In response the Georgia legislature extended its jurisdiction over the Cherokee Nation and proceeded to abolish the tribe's laws and government. The Alabama, Mississippi, and Tennessee legislatures soon followed suit and extended jurisdiction over the tribes in their states. To make matters worse for the Cherokees, Americans discovered that gold could be mined in the Cherokee Nation around the same time. This prompted a gold rush into Cherokee territory, thus increasing Georgia's demands.

It was during this crisis that Jackson was elected president. As someone who had promoted removal since at least 1817, Jackson moved quickly to make the relocation of the tribes in the Southeast an objective for his administration. His political allies pushed the Indian Removal Act of 1830 through Congress by a slim margin. The law provided the president with the authority to negotiate treaties with tribes within the United States that would result in the exchange of their land for a new parcel in the Louisiana Territory. From that point forward, Jackson and his War Department worked expeditiously to persuade tribes to sign removal treaties.

The Indian nations reacted to the removal pressures in different ways. Some tribes, such as the Choctaws, signed agreements quickly and departed for the Indian Territory established west of Arkansas. The Seminoles fought a long

and bloody war to resist removal. The Sac and Fox under Chief Black Hawk and many Creeks also tried to resist their relocation. The Cherokee Nation, for its part, brought suit against Georgia to try to end the state's trespasses on its sovereignty. After the U.S. Supreme Court refused to hear the case on its merits in *Cherokee Nation v. Georgia* (1831), the Court ruled in *Worcester v. Georgia* (1832) that the Cherokees comprised a nation with sovereign powers and that the states' actions were unconstitutional. Georgia, however, refused to recognize the Court's authority, and neither Jackson nor Congress moved to force the state to abide by the decision. After several more years of negotiation, Jackson's agent signed a removal treaty with a dissident faction of Cherokees at New Echota in December 1835 that required the Cherokees to depart for the Indian Territory within two years. In 1838 Jackson's protégé and successor, Martin Van Buren, ordered troops to go into the Cherokee Nation, round up every Cherokee they could, and imprison the Cherokees in internment camps that were built hastily throughout Cherokee territory. In the fall and winter of 1838, the Cherokee people traveled the Trail of Tears to their new lands in the Indian Territory. Scholars estimate that more than four thousand Cherokees died as a consequence of their roundup and removal.

Jackson's administration signed over ninety removal treaties with Indian tribes in the North and South, and by 1843 almost all of the tribes residing in the existing states had been removed into the western territories of the United States. This opened their former homelands to American settlement. Jackson biographer Robert Remini, and other prominent historians such as Francis Paul Prucha, claim that Indian removal was inevitable and actually saved the Cherokee Nation and other eastern tribes from extinction. Other scholars argue that Jackson was a racist and that removal was immoral, for it required the United States to violate promises it had made to the tribes in several treaties to protect their territory.

See also *Black Hawk*; *Black Hawk War* (1832); *Cherokee Nation v. Georgia* (1831); *Creek Civil War* (1813–1814); *First Seminole War* (1817–1818); *Fort Jackson* (1814), *Treaty of*; *Herring, Elbert*; *Indian Removal Act of 1830*; *New Echota* (1835), *Treaty of*; *Removal*; *Second Seminole War* (1835–1842); *U.S. Indian Policy: Congress and the Executive, 1803–1848*; *U.S. Supreme Court and Indian Policy, 1789–1871*; *Trail of Tears*; *Van Buren, Martin*; *War of 1812* (1812–1814); *Worcester v. Georgia* (1832).

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BIBLIOGRAPHY

- Cave, Alfred. "Abuse of Power: Andrew Jackson and the Indian Removal Act of 1830." *Historian*, vol. 65 (December 2003): 1330–1353.
- Cherokee Nation v. Georgia*, 30 U.S. 1 (1831).
- Faust, Richard H. "Another Look at General Jackson and the Indians of the Mississippi Territory." *Alabama Review*, vol. 28 (July 1975): 202–217.
- Fritz, Henry E. "Humanitarian Rhetoric and Andrew Jackson's Indian Removal Policy." *Chronicles of Oklahoma*, vol. 79 (Spring 2001): 62–91.
- Heidler, David S., and Jeanne T. Heidler. *Old Hickory's War: Andrew Jackson and the Quest for Empire*. Mechanicsburg, Pa.: Stackpole Books, 1996.
- Moser, Harold D., David R. Hoth, and George H. Hoemann, eds. *The Papers of Andrew Jackson, Vol. IV, 1816–1820*. Knoxville: University of Tennessee Press (1994).
- O'Brien, Sean Michael. In *Bitterness and in Tears: Andrew Jackson's Destruction of the Creeks and Seminoles*. Westport, Conn.: Praeger, 2003.
- Prucha, Francis Paul. "Andrew Jackson's Indian Policy: A Reassessment." *Journal of American History*, vol. 56 (December 1969): 527–539.
- Remini, Robert V. *Andrew Jackson and His Indian Wars*. New York: Viking, 2001.
- Satz, Ronald N. *American Indian Policy in the Jacksonian Era*. Norman: University of Oklahoma Press, 2002.
- Scherer, Mark R. "'Now Let Him Enforce It': Exploring the Myth of Andrew Jackson's Response to Worcester v. Georgia (1832)." *Chronicles of Oklahoma*, vol. 74 (1996): 16–29.
- Wallace, Anthony F. C. *The Long, Bitter Trail: Andrew Jackson and the Indians*. New York: Hill and Wang, 1993.
- White, Richard. "How Andrew Jackson Saved the Cherokees." *Green Bag*, vol. 5 (Summer 2002): 443–452.
- Worcester v. Georgia*, 31 U.S. 515 (1832).

Jackson, Helen Hunt

Helen Hunt Jackson (1830–1885), the author of *A Century of Dishonor: A Sketch of the Government's Dealings with Some of the Indian Tribes* (1881) and *Ramona* (1884), used her books to raise public awareness of the plight of the American Indian in the late nineteenth century.

Jackson grew up in Amherst, Massachusetts. She moved to Colorado in 1873 and began writing poetry and novels. In 1879 she heard a lecture by Ponca chief Standing Bear on the forced removal of the tribe from Nebraska and his efforts to secure a homeland for his people. Inspired, Jackson helped found the Boston Indian Citizenship Committee and turned her literary talents to activism. She criticized the federal government's treatment of the Indians and began a campaign that drew national attention. Her activism culminated in *A Century of Dishonor*, a work that condemned federal Indian policy and recounted the history of broken treaties. She sent

copies of the book to every congressman with the admonishment from Benjamin Franklin, "Look upon your hands: they are stained with the blood of your relations" (Helen Hunt Jackson, *A Century of Dishonor: A Sketch of the Government's Dealings with Some of the Indian Tribes*, 1881). Although the book provoked public concern for Indian issues, groups who favored allotment and assimilation programs also used the work to raise support for their proposed reforms.

Jackson, suffering from poor health at this time, moved to California and learned about the plight of the state's Mission Indians. Her activism earned her an appointment as an Indian agent, and she traveled extensively throughout California, documenting the conditions of the tribes. Her government report spawned legislation to improve the situation of Native Americans but the bill died in the House of Representatives. Jackson responded by writing a novel inspired by Harriet Beecher Stowe's *Uncle Tom's Cabin* and the impact it had produced with regard to African American slavery. The resulting book, *Ramona*, about a part-Indian orphan raised in Mexican California society and her Indian husband, Alessandro, was an immediate success. The romanticized and stereotypical characterizations helped bring public attention to the social, economic, and political deprivations suffered by the Mission Indians in the state.

See also *Allotment in Severalty; California Indians; General Allotment Act (Dawes Act) of 1887; Mission Indians; Standing Bear*.

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BIBLIOGRAPHY

- Banning, Evelyn I. *Helen Hunt Jackson*. New York: Vanguard Press, 1973.
- Gonzalez, John M. "The Warp of Whiteness: Domesticity and Empire in Helen Hunt Jackson's *Ramona*." *American Literary History*, vol. 16, no. 3 (2004): 437–465.
- Jackson, Helen Hunt. *A Century of Dishonor: A Sketch of the Government's Dealings with Some of the Indian Tribes*. New York: Harper and Brothers, 1881.
- . *Ramona*. Boston: Roberts Brother, 1884.
- Whitaker, Rosemary. *Helen Hunt Jackson*. Boise, Idaho: Boise State University Press, 1987.

James, Jewell (Praying Wolf)

Jewell (Praying Wolf) James (1953–), a prominent environmental activist, was one of several Indian leaders responsible

for the national tribal summit hosted by President Bill Clinton at the White House in 1994. He was also one of the group of one hundred Native and non-Native activists that called for the creation of a "world court of the environment" to publicize acts of ecological degradation.

A master carver of totem poles in the Lummi Indian Nation, James is a spiritual leader and a member of the Lummi Tribal Council in Whatcom County, Washington State. He was involved in the presentation of two "healing poles" to the Pentagon following the terrorist attacks on September 11, 2001.

A lineal descendant of Chief Seattle, James has been heavily involved in recording many of the cultural aspects of Lummi life, and with 78 percent of all the enrolled Lummi living on or close to their reservation, much of the traditional lifestyle of the tribe has been retained. Although the Lummi people numbered only 4,219 enrolled members as of 2005, they have been anxious to preserve their culture, heritage, and sovereignty, which were guaranteed in the 1855 Treaty of Point Elliott.

James also possesses an interest in constitutional law, and is coordinator for the Lummi Treaty Protection Task Force, as well as chair of the board of the Kluckhohn Research Center.

Justin Corfield

BIBLIOGRAPHY

- James, Jewell. "Reflections on Common Ground." In *Our People, Our Land: Perspectives on the Columbus Quincentenary*, edited by Kurt Russo, 32–35. Bellingham, Wash.: Kluckhohn Center, 1992.

Janney, Samuel McPherson

Samuel McPherson Janney (1801–1880) was a Quaker minister and humanitarian who worked among Native Americans under the administration of President Ulysses S. Grant. Janney was born in Loudoun County, Virginia, where he spent most of his time farming and teaching school. When the Quakers split into Hicksite and Orthodox divisions in the 1820s, Janney sided with the Hicksites, who placed less stress on biblical authority and theological rigor than the Orthodox.

Quakers had long viewed themselves as supporters of Native American rights. Janney first manifested an interest in 1839, when he published a long poem entitled *The Last of the Lenape*, which concluded, "Do they not deserve our fostering aid?" In 1867 he published an essay in which he

deplored the killing of Plains Indians. Janney envisioned the solution to the United States' "Indian problem" as the end of tribal governments and the establishment of Native Americans as small farmers.

When President Grant invited religious groups to undertake "civilizing" Native Americans in 1869, Janney responded on behalf of Hicksite Friends with the proposal that they receive the Northern Superintendency, which encompassed Nebraska and the Omahas, Ho-Chunks, Pawnees, Otoes, and Dakota Sioux who resided there. Ely Parker, Grant's commissioner of Indian affairs, appointed Janney as the superintendent, and he arrived in Omaha in May 1869. He spent the next two years establishing boarding schools; negotiating annuity payments with the federal government; and encouraging the Pawnees, Ho-Chunks, Otos, and others to give up hunting and accept allotments of land to farm. He also defended the tribes against demands for their removal from the state. He resigned his position in September 1871 and returned to Virginia, where he died.

See also *Allotment in Severalty; Education: Boarding Schools; Grant, Ulysses S.; Missions and Missionaries; Parker, Ely S.; U.S. Indian Policy: Congress and the Executive, 1845–1877.*

Thomas Hamm

BIBLIOGRAPHY

- Janney, Samuel M. *Memoirs of Samuel M. Janney, Late of Lincoln, Va.: A Minister in the Religious Society of Friends*. Philadelphia, Pa.: Friends' Book Association, 1881.
- Milner, Clyde A., II. *With Good Intentions: Quaker Work among the Pawnees, Otos, and Omahas in the 1870s*. Lincoln: University of Nebraska Press, 1982.

Jay's Treaty (1794)

Jay's Treaty, also known as the Treaty of London, was signed between the United States and Great Britain on November 19, 1794. Named for John Jay, the head U.S. negotiator in London, the treaty sought to resolve lingering issues between the two countries from the American Revolution and normalize relations, particularly in trade. The Americans not only were eager to end British military support of Indian tribes on the western frontier of the United States, a situation that had strained diplomatic relations since the end of the war, but also insisted that the British abandon some forts in the Great Lakes region ceded to the United States under the Treaty of Paris (1783).

The British agreed to compensate American merchants for losses from the Revolutionary War and to vacate the forts

by June 1796. In return, the United States gave special trading status to Great Britain and acquiesced in British anti-French maritime policies, despite the British refusal to allow any trade with its Caribbean colonies. The treaty specifically allowed the British traders who came into the United States to exchange British goods for furs produced by Indians to work in U.S. territory around the Great Lakes, but many critics feared such a concession would allow the traders to stir up anti-American sentiments among the Indian tribes on the western frontier of the United States. Although strongly opposed in the United States by Jeffersonian Republicans, the treaty went into effect on February 29, 1796.

A majority of historians recognize the treaty as the first establishment of a "special relationship" between Great Britain and the United States. Others contend that the treaty did nothing diplomatically except reiterate U.S. rights established at the end of the American Revolution, and only postponed hostilities that would erupt in the War of 1812. However viewed, the treaty avoided war between Great Britain and the United States and instead ushered in a decade of peace and commercial prosperity for the two nations.

See also *American Revolutionary War; Paris (1783), Treaty of.*

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BIBLIOGRAPHY

- Bemis, Samuel F. *Jay's Treaty: A Study in Commerce and Diplomacy*. Westport, Conn.: Greenwood Press, 1975.
- Elkins, Stanley M., and Eric McKittrick. *The Age of Federalism: The Early American Republic, 1788–1800*. New York: Oxford University Press, 1995.
- Estes, Todd. "The Art of Presidential Leadership: George Washington and the Jay Treaty." *Virginia Magazine of History and Biography* 109, no. 2 (2001): 127–158.
- . "Shaping the Politics of Public Opinion: Federalists and the Jay Treaty Debate." *Journal of the Early Republic* 20, no. 3 (2000): 343–422.

Jefferson, Thomas

Thomas Jefferson (1743–1826) was the third president of the United States (1801–1809). He was one of America's primary founders and early political leaders, and he had a major impact on federal Indian policy in the nation's early decades.

Jefferson was born in Virginia into a plantation- and slave-owning family. He became an attorney and practiced law from 1767 to 1774. His work involved him in issues of Indian land sales and ownership. Jefferson was a Virginia legislator and governor from 1769 to 1780. He was part of the

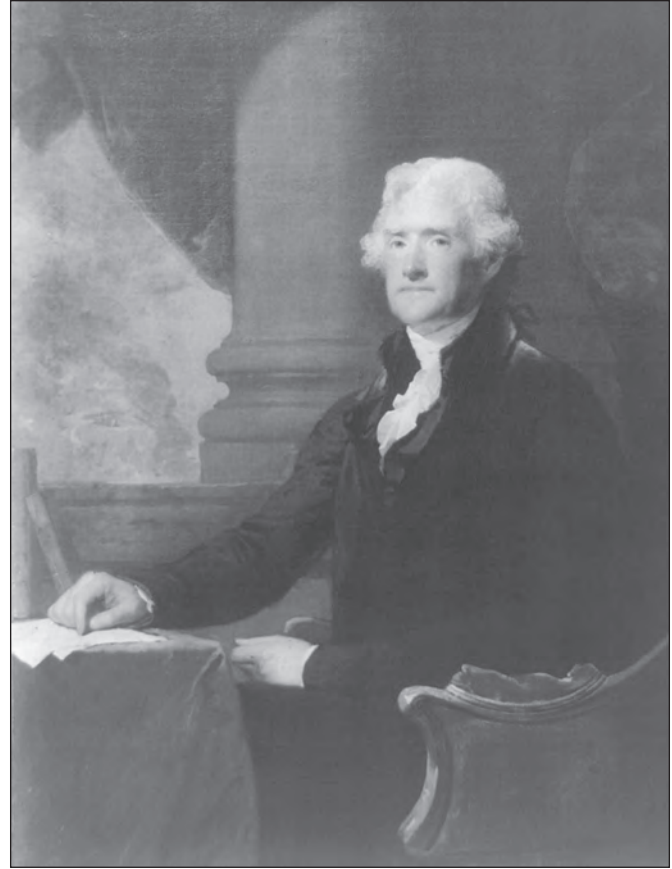
legislature that enacted a 1779 state law that declared all private purchases of Indian lands to be null and void because the state claimed the exclusive right to control such sales. He represented Virginia several times in the United States Congress and was the primary author of the Declaration of Independence in 1776. Before being elected president, Jefferson served as the American minister to France from 1785 to 1789, the first U.S. secretary of state from 1789 to 1793, and as vice president from 1797 to 1801.

During his service in the federal government, Jefferson was heavily involved in Indian affairs. He was the primary author of the Land Ordinance of 1784, which established how the United States would purchase and settle Indian lands in the West and earn profits from those transactions. This was not Jefferson's first experience in working to acquire Indian lands. In 1777–1778, he had drafted bills for Indian lands to be sold to pay the federal and state Revolutionary War debts and to manage unappropriated lands.

Thomas Jefferson had a life-long interest in Indian languages, history, culture, and political institutions. As an amateur archaeologist, he examined the contents of Native burial mounds and spent a significant amount of time studying and reading about Indian tribes. Jefferson wrote that Indians were equal in intellectual aptitude to whites and argued that the best outcome for Indians would be complete integration into white American society.

While Jefferson's comments seemed enlightened, they were contradicted by his actions. For instance, while Jefferson advocated assimilation and continuation of the civilization program initiated during the George Washington administration, he took little action on the issues. Some scholars and many Natives might say that Jefferson's idea of "assimilation" was to impose on Indians the transformation of their cultures and lifestyles by forcing them to sell their lands to the United States. Jefferson developed and promoted programs to remove Indians from the path of advancing American society that were in violation of his own stated goals to civilize, educate, and assimilate them into white society.

Jefferson used manipulative and coercive methods to encourage tribal leaders to sell land. In a private letter to William Henry Harrison, governor of the Indiana Territory, Jefferson advocated bribing Indian political leaders and encouraging government traders and federal factory agents to run Natives into debt so the United States could then force tribes to pay the debts with land cessions. The resulting sale of the Indian lands in the West to new American set-



Though Thomas Jefferson expressed considerable interest in Indian culture and affairs, his presidential policies encouraged expanding U.S. territory by taking Indian land and removing Indian populations to other areas.

tlers paid the nation's war debts and continued to fund federal government operations for decades. During Jefferson's presidency, the United States signed at least twenty-eight treaties with tribes and purchased millions of acres of land, which it then sold at a profit to white settlers. Jefferson also stated several times that if tribes resisted American expansion, they would be exterminated or driven into the Rocky Mountains.

In May 1803 Jefferson raised the idea of moving all the eastern Indian tribes west of the Mississippi River to open up the Indian lands for American settlement, making Jefferson the architect of the removal policy. In fact, Jefferson's first effort to promote Indian removal had come in 1802, when his administration made an agreement with Georgia to remove the Cherokee and Creek nations from the state. This agreement contradicted treaties the United States had previously signed with the two tribes guaranteeing them possession of their lands.

By the early 1800s, Jefferson had determined to incorporate the Pacific Northwest and the Oregon Country into the United States. After the Louisiana Purchase in 1803, he authorized the Lewis and Clark expedition (1804–1806) to explore the newly acquired lands, enforce American sovereignty on the Native residents there, and promote American trade to the Indians and their governments. The expedition also served to extend America's borders across the continent through the doctrine of discovery, a principle under which European and American governments "discovered" lands, and, by that discovery, claimed the sole right to buy lands from Native nations there. The expedition played a crucial role in realizing Jefferson's ambitions for continental expansion.

After the Louisiana Purchase, Jefferson immediately envisioned the territory as a viable destination to relocate the eastern tribes. During the latter years of his presidency, he wrote several tribes and attempted to persuade them to remove to the territory gained after the purchase. Although these entreaties were generally politely refused, between 1807 and 1810 small contingents of Cherokees did relocate to the Arkansas and White river valleys.

Jefferson was eager to expand America's borders, power, and trade, and he utilized every strategy available to promote those aims. Though American territorial expansion could only come at the expense of the Indian nations and tribal property rights, Jefferson's expansionist pursuits trumped those concerns and contributed largely to the federal policy that later came to be known as Manifest Destiny.

See also *Assimilation and Acculturation; Civilization Program; Compact of 1802; Lewis and Clark Expedition; Louisiana Purchase; Northwest Ordinance; Removal; Trade and Intercourse Acts; Westward Migration.*

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BIBLIOGRAPHY

- DeVoto, Bernard. *The Course of Empire*. Boston: Houghton Mifflin, 1952.
- Jackson, Donald. *Thomas Jefferson & the Stony Mountains*. Champaign: University of Illinois Press, 1981.
- Jefferson, Thomas. *The Papers of Thomas Jefferson*. Edited by Julian P. Boyd. Princeton, N.J.: Princeton University Press, 1953.
- . *The Writings of Thomas Jefferson*. 20 vols. Edited by Andrew A. Lipscomb and Albert Ellery Bergh. Washington, D.C.: Thomas Jefferson Memorial Association, 1905.
- Kennedy, Roger G. *Mr. Jefferson's Lost Cause: Land, Farmers, Slavery, and the Louisiana Purchase*. New York: Oxford University Press, 2003.
- Miller, Robert J. *Native America, Discovered and Conquered: Thomas Jefferson, Lewis & Clark, and Manifest Destiny*. Westport, Conn.: Praeger Publishers, 2006.

Onuf, Peter S. *Jefferson's Empire: The Language of American Nationhood*. Charlottesville: University Press of Virginia, 2000.

Sheehan, Bernard W. *Seeds of Extinction: Jeffersonian Philanthropy and the American Indian*. Chapel Hill: University of North Carolina Press, 1973.

Tucker, Robert W., & David C. Hendrickson. *Empire of Liberty: The Statecraft of Thomas Jefferson*. New York: Oxford University Press, 1990.

Jemison, Alice Lee

Alice Lee Jemison (1901–1964), a New York Seneca, was one of the cofounders of the American Indian Federation (AIF). As a syndicated journalist, Jemison was sharply critical of the Office of Indian Affairs (OIA) and demanded it be abolished. She joined the AIF at its founding and in 1934 was elected as the organization's secretary. The AIF championed Native American assimilation and demanded the OIA be abolished. Jemison emerged quickly as the organization's most vocal critic of President Franklin Roosevelt, Commissioner of Indian Affairs John Collier, and the Indian Reorganization Act (IRA).

Jemison and the AIF denounced the IRA's plans to end individual land allotment in favor of the old system of communal property ownership, to abandon Americanization programs for tribal revitalization, and to end the Christian missionary program on reservations. The IRA, she declared, was un-American. Jemison insisted that government treaties with Native Americans be maintained, allowing Indians the freedom to choose continued tribal life or assimilation with white society rather than imposing either path upon them.

Jemison, however, moved well beyond the AIF's position. She argued the IRA was an experiment in communism initiated by President Roosevelt and Commissioner John Collier, men she believed hoped to undermine the American system and establish one similar to the Soviet Union. She further claimed that educators responsible for designing Indian instructional programs were themselves communists. She insisted that the Roosevelt administration, the OIA, and the IRA were anti-Christian; both Roosevelt and Collier, she added, were volunteers in a Jewish world conspiracy to topple Christianity and the United States.

These accusations attracted federal attention. Although not officially tied to American pro-Nazi organizations, Jemison did receive financial help from the Silver Shirt Legion, the German American Bund, and the James True Associates, and she frequently appeared at their conferences. The AIF accepted Jemison's resignation in the summer of 1939.

See also *Allotment in Severalty*; *American Indian Federation*; *Collier, John*; *Indian New Deal*; *Indian Reorganization Act (IRA)*; *Missions and Missionaries*; *Roosevelt, Franklin D.*

Kenneth William Townsend

BIBLIOGRAPHY

- Hauptman, Laurence M. "The American Indian Federation and the Indian New Deal: A Reinterpretation." *Pacific Historical Review*, vol. 52 (November 1983): 378–402.
- Philp, Kenneth. *John Collier's Crusade for Indian Reform, 1920–1945*. Tucson: University of Arizona Press, 1980.
- Townsend, Kenneth. *World War II and the American Indian*. Albuquerque: University of New Mexico Press, 2000.

Johnson v. M'Intosh (1823)

Johnson and Graham's Lessee v. M'Intosh was decided by the U.S. Supreme Court on March 10, 1823, during John Marshall's tenure as Chief Justice. It was the first of three Marshall Court decisions, since called the "Marshall Trilogy," which established the scope of Native American sovereignty and the status of individual Native Americans under U.S. law.

The case involved a dispute that had been lingering since the 1780s between non-Indians over the ownership of two tracts of Illinois land previously within the boundaries of colonial Virginia. In 1775, just months before Virginia declared its independence, a syndicate of British subjects—including Virginia's royal governor, London investors, and some American colonists—purchased the tracts from the Piankeshaws despite King George III's Proclamation of 1763, which had forbidden private purchases of Indian land west of the Appalachians without crown permission. Because the king had not approved the purchase, the deed conveying the tracts transferred them to the syndicate's members or to King George III for the members' use and benefit, to hopefully avoid invalidation under the proclamation.

The syndicate never took actual possession of either tract. First the American Revolutionary War (1775–1783) intruded. Then, after the war, syndicate members, most of whom had been Loyalists, were faced with a competing ownership claim made by the United States. The United States had succeeded to ownership of George III's crown lands within its borders, and Virginia had ceded its western territory to the new nation in 1784.

Between 1781 and 1816, syndicate members repeatedly, and unsuccessfully, asked the United States to recognize title in their names alone. In 1790, however, the first U.S. Congress passed the first of a series of trade and intercourse acts banning Indian land sales to states and non-Indian indi-

viduals unless authorized by the United States. President George Washington had urged such a law, hoping to lessen tensions between Indians and settlers on the frontier.

Litigation eventually began after the United States exercised its title over the tracts by selling land within one of them to a William M'Intosh (not the Creek leader of the same name) in 1818. After M'Intosh took possession, two American heirs of a deceased American syndicate member sued to eject him, hoping to (thereby) effectively clear their title to both tracts. After M'Intosh defeated them at trial, the heirs appealed to the Supreme Court. Neither the Piankeshaws nor the United States were parties to the case or the appeal.

M'Intosh's appeal posed questions of the legal rights and status of Native American tribes and individual Native Americans. Citing European international law, Daniel Webster argued for the heirs that although Native Americans and their traditional lands were situated within U.S. borders, Native Americans belonged to independent sovereign nations which could sell their communal lands if, when, and to whomever they chose. According to Webster, the Proclamation of 1763 did not bind the Piankeshaws because they had not agreed to it; thus, their deed to the syndicate members was unquestionably valid.

M'Intosh's attorneys likewise cited European international law but proposed that because Indians were, or at least had been, in a supposed "state of nature," they were, or had been, outside of civilized society, so their tribes had no sovereignty whatsoever, let alone enough sovereignty to convey land ownership. M'Intosh urged that centuries before, European explorers had won ownership of North America's Indian lands for their sponsoring nations by merely landing there—an international law principle known as the "doctrine of discovery." Native Americans, according to M'Intosh, no longer had any lands left to convey, if they ever had.

The Supreme Court's decision, written by Chief Justice John Marshall, uniquely blended the international law concepts cited by the parties. Partially agreeing with the heirs, Marshall wrote that Native American tribes did and do have sovereignty sufficient for them to own, occupy, and use their traditional tribal lands. However, partially agreeing with M'Intosh, Marshall added that Native American tribes could not sell tribal lands without the consent of the United States because tribal sovereignty is "limited" and "impaired." The United States has paramount sovereignty over all persons and lands within its borders, held Marshall, derived from North America's "discovery" by European explorers and

subsequently acquisition by the United States. Marshall questioned the legitimacy of the doctrine of discovery but concluded that it was both historical precedent and essential to the national interests of the United States.

Johnson was an obvious compromise of competing interests. Had the Court held that tribes were independent sovereign nations, the validity of Congress's trade and intercourse acts would have been questionable, the terms and conditions attached by the United States to previous land sales could have been imperiled, and tribes would have been subjected to greater pressures to sell their lands. Had the Court held that tribes have no sovereignty, there could have been a torrent of claims that Native Americans were making insufficient use of their traditional lands and demands that they therefore had lost their right to use them.

The Marshall Court reaffirmed the comparatively limited sovereignty of Native American nations and tribes in *Cherokee Nation v. Georgia* (1831), in which it described tribes as "domestic dependent nations." Since *Johnson*, literally every U.S. statute and court decision dealing with the rights of Native American individuals, nations, or tribes has assumed that U.S. sovereignty is paramount and that tribal sovereignty can be limited by Congress.

Johnson said nothing about the remedies available for unapproved sales of Indian land. It simply denied the heirs' request for M'Intosh's ejection. Much later, in *County of Oneida v. Oneida Indian Nation of New York* (1985), the Supreme Court held that tribes have a common law right to recover damages from unapproved Indian land sales. There the Court allowed the Oneidas to recover the fair rental value of lands the state of New York purchased from them in 1795 in violation of the trade and intercourse acts. But in 2005, in *City of Sherrill v. Oneida Indian Nation*, the Supreme Court rejected a second Oneida claim under *Johnson* as untimely, holding that the Oneidas had waited too long to repurchase two lots on former Oneida land bought by the tribe in 1997 and 1998 and had thus lost their tribal right to exempt the lots from New York property taxes.

See also *Cherokee Nation v. Georgia*; *Discovery, Doctrine of; Marshall, John*; *Proclamation of 1763*; *Sovereignty*; *U.S. Supreme Court and Indian Policy, 1789–1871*; *Worcester v. Georgia*.

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BIBLIOGRAPHY

Barry, John Edward. "Oneida Indian Nation v. County of Oneida: Tribal Rights of Action and the Indian Trade and Intercourse Act." *Columbia Law Review*, vol. 84, no. 7 (1984): 1852–1880.

Burke, Joseph C. "The Cherokee Cases: A Study in Law, Politics, and Morality." *Stanford Law Review*, vol. 21 (February 1969): 500–531.
Cleveland, Sarah H. "Powers Inherent in Sovereignty: Indians, Aliens, Territories, and the Nineteenth Century Origins of Plenary Power over Foreign Affairs." *Texas Law Review*, vol. 81, no. 1 (November 2002), 1–284.

Garrison, Tim Alan. *The Legal Ideology of Removal: The Southern Judiciary and the Sovereignty of Native American Nations*. Athens: University of Georgia Press, 2002.

Johnson and Graham's Lessee v. M'Intosh, 21 U.S. (8 Wheat.) 543 (1823).

Robertson, Lindsay G. *Conquest by Law: How the Discovery of America Dispossessed Indigenous Peoples of Their Lands*. New York: Oxford University Press, 2005.

Williams, Robert A. *The American Indian in Western Legal Thought: The Discourses of Conquest*. New York: Oxford University Press, 1990.

Johnson, Lyndon B.

The presidency of Lyndon Baines Johnson (1908–1973) marked a crucial period in the transformation of Indian policy, despite his lack of interest in Native American issues.

Johnson was unfamiliar with Native American issues when he became president after John F. Kennedy's assassination in 1963. During his presidency, he met with Indian leaders only once, at a 1964 White House event that had been scheduled before Kennedy's death. Johnson's remarks at that meeting revealed he knew nothing about Indian policy. Two years later, at a 1966 ceremony honoring the new commissioner of Indian affairs, Robert L. Bennett, an Oneida and the first Native commissioner since Ely S. Parker, the president again offered comments irrelevant to the occasion. When he left the White House in 1969, Johnson remained largely ignorant of Native American concerns, despite the fact that a powerful Native rights movement had developed during his administration.

At the time of Kennedy's assassination, the termination policy (the federal government's plan to break up tribal governments and end special funding for Indian programs) remained officially in effect. By the time Johnson left office, termination had been discredited and largely abandoned. Self-determination, the creation and implementation of programs for reservations by Native peoples, had increasingly become the norm in Indian affairs. Johnson's Great Society programs, particularly those aimed at reducing poverty, promoted self-determination and are his legacy to Native Americans.

After becoming president, Johnson retained in his cabinet Stewart L. Udall, Kennedy's secretary of the interior. Johnson informed Udall that he would leave the conduct of Indian policy in Udall's hands. Over the preceding three

years, Udall's experiences in that area had proven frustrating. Members of Congress committed to termination had stymied efforts to craft innovative programs for economic development on the reservations. Moreover, Udall's relationship with Philleo Nash, commissioner of Indian affairs from 1961 to 1966, had worsened over time, in part because Nash had failed to impress Congress. As a result, the Bureau of Indian Affairs was neither dynamic nor creative in the 1960s.

Udall endorsed the expansion of Johnson's Great Society programs onto the reservations, but his efforts met with mixed success. By the end of the Johnson years, American Indians remained the least healthy, least educated, and most impoverished citizens of the United States. The Great Society initiatives never received adequate funding to meet the needs of Native peoples, and corruption and poor planning plagued many projects. Nevertheless, the Johnson agenda promoted Indian self-determination because its programs allowed local control. Native Americans therefore learned to plan projects, apply for grants, and manage programs—skills that allowed a generation of young Indians to assume leadership roles in the decades that followed.

Two other significant events in Indian affairs also marked the Johnson years. In 1968 Johnson became the first president to send a special message on Native Americans to Congress. Even though he played no role in drafting the message, which promised greater funding for Indian programs, the fact that the administration released such a message indicated that White House interest in Indian affairs had reached new levels. Johnson also established a National Council on Indian Opportunity, chaired by the vice president and composed of tribal leaders and several cabinet department heads. That same year, Congress passed the Indian Civil Rights Act. Largely a congressional initiative, this legislation guaranteed Bill of Rights protections to Native Americans in their relations with tribal governments. Johnson signed the legislation into law in April 1968.

See also Bennett, Robert L.; *Indian Civil Rights Act of 1968; Interior, Department of the; Kennedy, John F.; Nash, Philleo; Self-Determination; Termination and Restoration; Udall, Stewart L.*

Thomas F. Clarkin

BIBLIOGRAPHY

- Castile, George P. *To Show Heart: Native American Self-Determination and Federal Indian Policy, 1960–1975*. Tucson: University of Arizona Press, 1998.
- Clarkin, Thomas F. *Federal Indian Policy in the Kennedy and Johnson Administrations, 1961–1969*. Albuquerque: University of New Mexico Press, 2001.

———. "The First Citizens of America: Lyndon Johnson and American Indians." In *Looking Back at LBJ: White House Politics in a New Light*, edited by Mitchell B. Lerner, 250–279. Lawrence: University Press of Kansas, 2005.

Cobb, Daniel M. "Philosophy of an Indian War: Indian Community Action in the Johnson Administration's War on Poverty, 1964–1968." *American Indian Culture and Research Journal* 22, no. 2 (1998): 71–102.

Indian Civil Rights Act, Public Law 90-284, 90th Cong., 2d sess. (April 11, 1968).

Riggs, Christopher K. "Indians, Liberalism, and Lyndon Johnson's Great Society, 1963–1969." Ph.D. diss., University of Colorado, 1997.

Johnson, Richard M.

Richard Mentor Johnson (1780–1850), a congressman, senator, and vice president of the United States, served as a colonel for the Kentucky Volunteers in the War of 1812 (1812–1814). During the war his mounted militia destroyed several Indian villages. At the Battle of the Thames, Johnson suffered several wounds that would affect him for the rest of his life. In this battle, Johnson reportedly killed the Shawnee chief Tecumseh, resulting in the end of Indian resistance. The campaign slogan "Rumpsey, Dumpsey, Richard Johnson killed Tecumseh" gained him support in the 1836 vice presidential election.

Despite his fame as an Indian fighter, Johnson was a member of the board of directors of the Kentucky Baptist Society for Propagating the Gospel among the Heathen and was a founding supporter of the Choctaw Academy and Missionary Station in Scott County, Kentucky. The academy was established outside of the Choctaw Nation, for tribal leaders who supported the school wanted their young men to be influenced by the surrounding white civilization. Originally conceived as a way to train young men for future tribal leadership and to prepare them for serving as mediators with the U. S. government and white civilization, the school provided a typical American education of the times and instruction in the mechanical arts. Later, the academy expanded from serving Choctaw Indians to include the instruction of white students and boys from other tribes. Part of the funding for the school came from the U.S. government for lands ceded to it by the Choctaws. Johnson, on whose land the academy was built, controlled the school and hoped to realize a profit from it by running the academy extremely economically. Although several of the academy's graduates were successful, many were left trapped between two cultures, estranged from tribal customs yet unaccepted by white society.

See also *Education: Mission Schools; Tecumseh.*

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BIBLIOGRAPHY

- Drake, Ella Wells. "Choctaw Academy: Richard M. Johnson and the Business of Indian Education." *Register of the Kentucky Historical Society*, vol. 91, no. 3 (1993): 260–297.
- Meyer, Leland Winfield. *The Life and Times of Colonel Richard M. Johnson of Kentucky*. New York: Columbia University Press, 1932.
- Sugden, John. *Tecumseh: A Life*. Henry Holt and Company: New York, 1997.

Johnson, William

William Johnson (1715–1774) was an Indian agent and superintendent of Indian affairs for the United States' Northern Department. Born in Ireland to modestly prosperous tenant farmers, Johnson came to the colonies to manage the New York estate granted to his well-connected uncle, Admiral Sir Peter Warren. Johnson eventually acquired his own land in the Mohawk Valley through purchases and grants.

Through his adept dealing with Native Americans, particularly the Six Iroquois Nations, Johnson assumed numerous imperial positions, most notably as a major general and superintendent of Indian affairs during the Seven Years' War (1754–1763). He became the Superintendent of Indian Affairs for the Northern District following the war, serving as the main British liaison with the northern tribes and helping to craft and implement imperial policy.

Johnson was particularly close to the Mohawks, the easternmost nation of the Six Iroquois Nations. He married and had several children with a Mohawk woman, Molly Brant, and was close to her brother Joseph Brant, the leader of the Mohawks who, with most of his tribe, split from the Six Nations to side with the British during the American Revolution.

Johnson negotiated a series of treaties during the Seven Years' War and its aftermath. In 1758 Johnson concluded a treaty at Easton, Pennsylvania, in which he acknowledged Native rights to hunting land west of the Allegheny Mountains. In 1763, in part because of this treaty and Johnson's advice, George III recognized all lands west of the Appalachian Mountains to be Native land, and he established that such lands would be acquired through properly deputized imperial agents rather than private purchase. Johnson implicitly affirmed this process in the Treaty of Fort Stanwix, negotiated with the Six Iroquois Nations in 1768, which created a new line demarking the limits of white settlement that roughly followed the Ohio River.

See also *Brant, Joseph; Brant, Mary (Molly); French and Indian War; Great Britain, Indian Policy of; Proclamation of 1763.*

Patrick Spero

BIBLIOGRAPHY

- Flexner, James Thomas. *Lord of the Mohawks: A Biography of Sir William Johnson*. Boston: Little, Brown and Company, 1979.
- O'Toole, Fintan. *White Savage: William Johnson and the Invention of America*. New York: Farrar, Straus and Giroux, 2005.
- Pound, Arthur. *Johnson of the Mohawks: A Biography of Sir William Johnson, Irish Immigrant, Mohawk War Chief, American Soldier, Empire Builder*. New York: Macmillan Company, 1930.

Johnson-O'Malley Act (1934)

The Johnson-O'Malley Act, passed by Congress on April 16, 1934, authorized the secretary of the interior to enter into contracts with any state or territory (except Oklahoma) to provide education, medical care, agricultural assistance, and welfare services to Indians within that state or territory.

In 1929 the American Indian Defense Association, the U.S. Department of the Interior, and some members of Congress began to forge an uneasy alliance aimed at transferring certain responsibilities over Indians to the states, particularly for education, health, and welfare. Their initial attempt, the Swing-Johnson bill, failed, just like so many Indian reforms proposed in the early 1930s.

When John Collier became commissioner of Indian affairs in 1933, he renewed the push for reforms, including cooperation between the federal government and the states in providing services to Indians. The result was the Johnson-O'Malley Act, which allowed the secretary of the interior to contract with the states or territories (except Oklahoma) to provide Indians within that state or territory with badly needed services. Congress amended the act in 1936 to expand the entities with whom the secretary might contract to include "any State university, college, or school, or any appropriate State or private corporation, agency, or institution."

Between the 1940s and the 1970s, most Johnson-O'Malley contracts were directed at providing Indians with education. The states, however, often used these federal funds for general purposes rather than for special programs for Indians. Legislation in the 1970s, particularly the Indian Education Act (1972) and the Indian Self-Determination and Education Assistance Act (ISDEA, 1975) gave Indian parents more direct involvement in the education of their children in public schools. ISDEA also provided a mechanism for tribes to contract to provide federal services. Since 1975,

the Department of the Interior has restricted contracting for Bureau of Indian Affairs programs to tribal organizations.

See also *American Indian Defense Association*; *Collier, John*; *Education: Public Schools*; *Indian Education Act (1972)*; *Indian Self-Determination and Education Assistance Act (1975)*.

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BIBLIOGRAPHY

- Indian Education Act of 1972*, Public Law 92-318, 92 Cong., 2nd sess. (June 23, 1972).
- Indian Self-Determination and Education Assistance Act of 1975*, Public Law 93-638, 94th Cong., 1st sess. (January 4, 1975).
- Johnson-O'Malley Act*, Public Law 81-874, 73rd Cong., 2nd sess. (April 16, 1934).
- Philp, Kenneth R. *John Collier's Crusade for Indian Reform, 1920-1954*. Tucson: University of Arizona Press, 1977.
- Szasz, Margaret Connell. *Education and the American Indian: The Road to Self-Determination Since 1928*. 3rd ed. Albuquerque: University of New Mexico Press, 1999.
- Szasz, Margaret Connell, and Carmelita Ryan. "American Indian Education." In *Handbook of North American Indians*. Vol. 4 of *History of Indian White Relations*. Washington, D.C.: Smithsonian Institution, 1988.

Jones, William A.

William Arthur Jones (1844-1912) was appointed commissioner of Indian affairs by President William McKinley in 1897. He held the post until 1905, longer than any of his predecessors. His tenure was marked by a concerted effort to move Native Americans toward cultural assimilation.

Jones believed living on reservations and relying on government annuities and rations made Indians dependent on the government and delayed their assimilation into mainstream American society. He therefore supported the breaking up of reservations and the allotment of the smaller portions of land to individual Indians. During his time as commissioner, he was active in the campaign to end the policy of sending Indians to off-reservation schools; instead he promoted on-reservation industrial schools so that students could learn to work and then eventually move off the reservation. He believed that Native people needed to be instructed to work, and he ordered agents to end rations for healthy men who were capable of working but refused to do so.

In an effort to eradicate Native culture, Jones issued the notorious "short hair" order that required male Indians to keep their hair cut short. If they disobeyed, Indians could lose their rations or job. He also issued directives against face painting and dancing and ordered agents to require Indians

under their charge to dress in Western attire. Jones also attempted to bring greater efficiency to the Indian office, tried to suppress the on-reservation liquor trade, and ordered a study of health conditions at Indian schools.

After leaving the commissioner's office, he returned to his business interests, moving to Chicago with his wife and four children. He died on September 17, 1912.

See also *Allotment in Severalty*; *Assimilation and Acculturation*; *McKinley, William*.

Justin Corfield

BIBLIOGRAPHY

- Kvasnicka, Robert, and Herman J. Viola. *The Commissioners of Indian Affairs, 1824-1977*. Lincoln: University of Nebraska Press, 1979.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.

Joseph, Chief

Chief Joseph (1840-1904) was the son of the elder Chief Joseph and leader of the Wallowa band of the Nez Perce Indian tribe during the Nez Perce War with the United States in 1877. Under the elder Chief Joseph's leadership, the Nez Perce had maintained good relations with settlers since their first meeting with explorers Meriwether Lewis and William Clark in 1805.

The Nez Perce ("Pierced Noses") lived in the area where the present-day states of Washington, Oregon, and Idaho join. The various tribes of this area, including the Nez Perce, signed the Isaac Steven's Treaty in 1855, ceding Indian lands in the Washington Territory in exchange for reservation lands, homes, tools, and money. New settlers ignored the treaty and claimed the area as their own. The discovery of gold on Nez Perce land in 1860 broke the treaty for good as prospectors rushed to the site. In 1863 the federal government offered the Nez Perce a new treaty that removed the tribe's control of the Wallowa Valley and confined it to a ten-thousand-acre reservation in Idaho. Although many Nez Perce chiefs signed, elder Chief Joseph refused.

In 1871 Chief Joseph died and was succeeded by his son. The younger Chief Joseph also sought to be a man of peace who avoided war. In 1877 the United States gave the Nez Perce thirty days to relocate to Idaho. Chief Joseph was reluctantly leading his people there when a group of enraged warriors from the tribe attacked and killed several nearby settlers. The army pursued the Nez Perce, and Chief Joseph was left with little choice but to flee. He led a group of about



Young Chief Joseph attempted to peacefully maintain the land of his people in the Wallowa Valley despite federal pressure to remove to a reservation.

eight hundred people 1,400 miles toward Canada. He and his warriors eluded U.S. forces across four states for over three months.

In early October 1877, only forty miles from the Canadian border, Chief Joseph and his tribe were surrounded by the U.S. Army. His surrender speech contained the famous words, "From where the sun now stands, I will fight no more, forever" (Merrill D. Beal, *I Will Fight No More Forever: Chief Joseph and the Nez Percé War*, 1966).

After his surrender, Joseph and the Nez Percé were removed to Kansas and then to a reservation in present-day Oklahoma. Many died of disease. It was not until 1885 that Joseph and the remaining members of his tribe were able to return to the Pacific Northwest.

See also *Gold and Gold Rushes; Nez Percé War.*

Troy R. Johnson

BIBLIOGRAPHY

- Beal, Merrill D. *I Will Fight No More Forever: Chief Joseph and the Nez Percé War*. Seattle: University of Washington Press, 1966.
- Gulick, Bill. *Chief Joseph Country: Land of the Nez Percé*. Caldwell, Idaho: Caxton Press, 1981.
- Nerburn, Kent. *Chief Joseph and the Flight of the Nez Percé: The Untold Story of an American Tragedy*. New York: Harper San Francisco, 2006.

Jourdain, Roger

Known to many nationally as simply "The Chairman," Roger Jourdain (1912–2002) served for over thirty years as chair of the Red Lake Band of Chippewa. Elected in 1959 as the first chair of the newly reorganized tribal government, Jourdain was a tireless advocate for housing construction, health care improvement, economic development, reacquisition of tribal lands, accounting for federal government management of tribal resources, and recognition of tribal sovereignty and treaty rights.

Jourdain was born July 27, 1912, in the Little Rock area of the Red Lake reservation. His father was custodian and disciplinarian at the military-style Ponemah Indian School, and his mother was a matron there. Jourdain attended Flandreau Indian School in South Dakota up until the age of fourteen, at which point he defied his father's wishes and left the school to attend the Haskell Indian Institute in Kansas.

As a young man, Roger learned from the hereditary chiefs the history of Chippewa interaction with the United States through treaties, and he used this knowledge to assert tribal sovereignty and treaty rights on behalf of his and other Indian nations throughout his political career. He served as the postmaster on his reservation early in his employment career, but he was fired after he spoke out and wrote letters on behalf of the chiefs to the Bureau of Indian Affairs (BIA).

Jourdain's criticism of the BIA and U.S. Indian policy was one of the hallmarks of his leadership. He successfully opposed Public Law 280, which would have granted state criminal jurisdiction within the Red Lake reservation, a closed reservation that had escaped the allotment policy. He was an impassioned challenger to the termination policy, which was repealed by Public Law 100-297 in 1988. In an address given at St. Cloud State University in 1990, Jourdain stated:

The attack on tribal sovereignty is taking many forms—from protests of our aboriginal hunting and

fishing rights to the enactment of national legislation that takes away our right to regulate our own gaming enterprises with the National Indian Gaming Act. . . . Tribal leaders must get together and fight for our sovereignty.

Jourdain was the founder of the National Tribal Chairman's Association and established the Jourdain-Perpich Extended Care Facility on the Red Lake reservation. He received an award for distinguished service to Indian people from the BIA, was named the American Indian Heritage Foundation's 1987 Indian Man of the Year, and was the 1991 American Indian honoree at the annual National Congress of American Indians Executive Council banquet. He also served as a National Democratic Convention delegate for several years.

See also *Public Law 280; Termination and Restoration.*

Angelique EagleWoman
(Wambdi A. WasteWin)

BIBLIOGRAPHY

- Jourdain, Roger. Address at St. Cloud State University, May 3, 1990.
Little Eagle, Avis. "Red Lake Reservation's Chief," *Lakota Times*, June 12, 1991.
Swanson, Brad. "Roger Jourdain, 1912–2002," *Red Lake Nation*, March 29, 2002.

Just War

The doctrine of "just war" holds that certain circumstances justify a nation to engage in warfare and seize the land and assets of another nation. The European imperial powers and the United States used the doctrine to rationalize the conquest of Native American peoples in the sixteenth through the nineteenth centuries.

According to scholars, St. Augustine developed the idea in the fourth century. According to Augustine in his work *The City of God*, Christianity only defined as "just" wars of self-defense or actions to recover stolen property of the Church. After Christopher Columbus's arrival in the western hemi-

sphere, the concept was adopted by Franciscus de Victoria, a Spanish priest and legal scholar, to justify the Spanish conquest of Latin America.

Victoria argued that Indian violations of the European Law of Nations justified a Christian nation's conquest. He said that the Spanish possessed rights that Natives could not violate, including the right to travel to Native lands and teach the residents the Gospel; the right to engage in trade and commerce; and the right to take profits from material the Natives held, such as gold and silver. If Native "infidels" interfered with these rights, Spain could "defend" itself and fight a lawful or "just" war of conquest against the Natives and extend sovereignty over them.

This principle was incorporated into American law in the Northwest Ordinance of 1787, which promised: "The utmost good faith shall always be observed towards the Indians, their lands and property shall never be taken from them without their consent . . . they shall never be invaded or disturbed, unless in just and lawful wars." Thomas Jefferson also utilized the doctrine when he wrote that "native title" could be acquired by war.

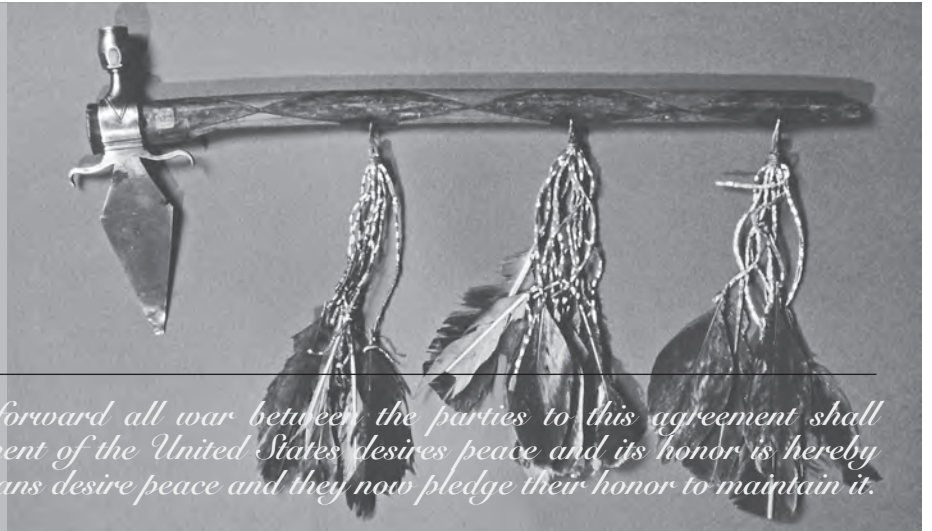
See also *Northwest Ordinance.*

Robert J. Miller

BIBLIOGRAPHY

- Hanke, Lewis. *The Spanish Struggle for Justice in the Conquest of America*. Philadelphia: University of Pennsylvania Press, 1949.
Johnson and Graham's Lessee v. M'Intosh, 21 U.S. 543 (1823).
Pagden, Anthony. *Lords of All the World: Ideologies of Empire in Spain, Britain and France c. 1500–c. 1800*. New Haven, Conn.: Yale University Press, 1995.
Prucha, Francis Paul. *Documents of United States Indian Policy*. 3rd ed. Lincoln: University of Nebraska Press, 2000.
Victoria, Franciscus de. *De Indis et de Iure Belli Relectiones* (The Relectiones in Moral Theology of the Very Celebrated Spanish Theologian, Franciscus de Victoria). Edited by Ernest Nys. Washington, D.C.: Carnegie Institution of Washington, 1917.
Williams, Robert A., Jr. *The American Indian in Western Legal Thought: The Discourses of Conquest*. New York: Oxford University Press, 1990.

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Article 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they now pledge their honor to maintain it.

Kagama, United States v. (1886)

See *United States v. Kagama (1886)*.

Kamiakin

Kamiakin (1800–1877), a highly respected chief of Yakama and Palouse heritage, played a central role in the negotiation of land cession treaties and the subsequent eruption of hostilities on the Columbia Plateau during the 1850s. Because of his influence among the Indian peoples of the Inland Northwest, U.S. treaty commissioners designated him “head chief” of the Yakama Nation at the Walla Walla treaty council in June 1855. However, he never claimed the authority to represent all of the groups the federal government thus placed under his leadership.

Before the council, Kamiakin, who was an opponent of land cessions, had reportedly convened a large intertribal meeting in eastern Oregon to coordinate unified and possibly armed resistance to the treaties. Although historians disagree over the timing and outcome of this council, Kamiakin made his own position clear to Governor Isaac Stevens by initially refusing to speak or accept any gifts, which he feared would be construed as payment for his lands. According to one witness, Kamiakin signed the Yakama Treaty only upon being warned that his people would “walk in blood knee deep” if he failed to do so. Some Indians later claimed that his mark merely signified his desire for peace and friendly relations, while a white observer reported that Kamiakin’s lip bled from being bitten in suppressed rage as he touched the pen. Kamiakin fought in the ensuing Plateau Indian Wars of 1855–1858 and fled to

Canada at their conclusion. Although he eventually returned to Palouse country, he never resumed his position as head chief or accepted any assistance from the Indian Office.

See also *Yakama War (1855–1856)*.

Andrew H. Fisher

BIBLIOGRAPHY

- Splawn, Andrew Jackson. *Ka-mi-akin, Last Hero of the Yakimas*. Portland, Ore.: Stationery and Printing Company, 1917.
- Stern, Theodore. *Chiefs and Change in the Oregon Country: Indian Relations at Fort Nez Percés, 1818–1855*. Vol. 2. Corvallis: Oregon State University Press, 1997.
- Trafzer, Clifford E., and Richard D. Scheuerman. *Renegade Tribe: The Palouse Indians and the Invasion of the Inland Northwest*. Pullman: Washington State University Press, 1986.

Kennedy, John F.

John Fitzgerald Kennedy (1917–1963) had little knowledge of Indian affairs when he became president of the United States in 1961. During his campaign for the office, Kennedy had pledged a sharp break with past policies and promised to increase federal economic assistance to Indian communities. However, once in office Kennedy never fully repudiated the termination policy then in effect. (The termination policy of the federal government sought to break up tribal governments and end special funding for Indian programs). In 1962 he signed legislation terminating one tribe, the Poncas.

In the vacuum of White House leadership, members of Congress favoring termination were able to exercise considerable influence over Indian affairs. Their commitment to that policy limited the options available to Interior Secretary Stewart L. Udall, and so the Bureau of Indian Affairs offered

no significant innovations or legislation during the Kennedy years. Even though federal assistance to Native Americans did increase, primarily by expanding the programs already run by agencies such as the Area Redevelopment Administration, efforts to spread industrial development to the reservations met with little success. Few jobs were created, and those businesses attracted to the reservations offered low wages.

In 1961 a controversy erupted over the construction of the Kinzua Dam in New York, which would flood lands belonging to the Seneca Nation. Kennedy refused to halt construction of the dam, a legacy of the Dwight D. Eisenhower administration. Newspaper editorialists condemned the project as a violation of rights guaranteed to the Senecas in a 1794 treaty. But Kennedy ignored the debate over treaty rights; instead, he approached the issue as a public relations problem. Kennedy's support for the Kinzua Dam project and his failure to repudiate termination are the primary legacies of his presidency in Indian affairs.

See also *Seneca Land Rights; Termination and Restoration; Udall, Stewart L.*

Thomas F. Clarkin

BIBLIOGRAPHY

- Castile, George P. *To Show Heart: Native American Self-Determination and Federal Indian Policy, 1960–1975*. Tucson: University of Arizona Press, 1998.
- Clarkin, Thomas F. *Federal Indian Policy in the Kennedy and Johnson Administrations, 1961–1969*. Albuquerque: University of New Mexico Press, 2001.

Kennekuk

Kennekuk, or “Putting His Foot Down” (c. 1790–c. 1852), was a religious prophet and leading chief of the Vermilion band of Kickapoo Indians that resided along the borders of present-day Indiana and Illinois. Early in his life Kennekuk had a vision that encouraged him to preach accommodation to U.S. culture and land demands and provide guidance for a new religion that combined Christian ideas with traditional Indian concepts.

By the time he reached his mid-twenties, Kennekuk had become the leader of the Vermilion band. He instructed his followers to live peacefully with one another, refrain from the use of alcohol, and renounce superstitious practices such as singing the traditional medicine song. He also encouraged Kickapoo warriors to stop painting their bodies, give up war, and begin farming in the manner demanded by the United States.

Although the Kickapoos signed a treaty in 1819 that required them to surrender their lands in Illinois and move west of the Mississippi River into Missouri, Kennekuk's band did not want to relocate. Some of the Kickapoos moved to Texas and then on to Mexico. Others, under the leadership of Mecina, tried to resist and destroyed the property of settlers who were moving into the area. Kennekuk was able, through delaying tactics and passive resistance, to postpone the removal of his followers until years after the treaty was signed. For example, in 1832 Kennekuk's community chose not to participate in the Black Hawk War in hopes that grateful Americans would allow them to regain parts of Illinois. This gamble proved unsuccessful, and in 1833 Kennekuk finally led his band of approximately four hundred Natives to their new territory in the West. He died around 1852, possibly of smallpox.

See also *Assimilation and Acculturation; Black Hawk; Black Hawk War (1832); Removal.*

Troy R. Johnson

BIBLIOGRAPHY

- Gibson, Arrell M. *Kickapoos: Lords of the Middle Border*. Norman: University of Oklahoma Press, 1976.
- Schultz, George A. *Kennekuk: The Kickapoo Prophet*. Wichita: Kansas State Historical Society, 1980.

Kennewick Man

The 1996 discovery of a nine-thousand-year-old skeleton raised controversy in American Indian communities and brought attention to important issues affecting indigenous people and their culture, artifacts, and graves. The skeleton, dubbed “Kennewick Man” after it was uncovered on the shores of the Columbia River in Kennewick, Washington, is considered one of the oldest and most intact ever found in North America and has been a topic of great interest to members of the scientific community.

After word of the discovery spread in the popular media, members of American Indian nations expressed outrage at the prospect of scientists studying the skeleton (which they called “The Ancient One”). When Native tribes demanded the return of the skeleton, a consortium of eight scientists filed suit for the right to study the bones. Several Columbia Plateau tribes, including the Umatilla, Nez Perce, Colville, Wanapum, and Yakama, in turn filed suit, stating the remains should be given to the tribes. They argued that the skeleton was protected under the Native American Graves and

Repatriation Act (NAGPRA). The act, signed in 1990 by U.S. president George H. W. Bush, was seen as a vital step in helping to stop grave robbing and sales of Indian artifacts.

The NAGPRA legislation has also been considered an important component in establishing the ability of Indian tribes to self-govern as sovereign nations. Indian communities have long sought protection and respect for their religious beliefs, fishing and hunting rights, and educational practices. The tribes that argued for the return of the bones noted that as sovereign nations, they should have the authority to make decisions about how ancestral artifacts are collected, studied, and buried. Armand Minthorn, a spokesman for the Umatilla, said their ancestor was deserving of respect and should be protected from scientific scrutiny. He added that his tribe's policies and religious beliefs prohibited scientists from testing and studying the bodies of the deceased.

At first glance, the case of Kennewick Man seemed straightforward: the NAGPRA should honor the Indians' claim to the bones. However, the scientists who brought suit claimed the skeleton did not appear to resemble modern Native Americans—a controversial theory disputed within both scientific and Indian communities. Additionally, in 2002 U.S. magistrate judge John Jelderks of the Federal District Court in Portland, Oregon, concluded there was no evidence that showed a shared group identity of Kennewick Man with any Native Americans, and this ruling was upheld in 2004 by an appeals court panel of judges. The bones remain at the Burke Museum in Seattle, where they have undergone scientific testing.

The Kennewick Man controversy is important for several reasons. First, it represents an instance of Indians seeking to use the NAGPRA to protect their cultural beliefs and heritage. Second, it has served to call attention to disputes within the scientific community of what constitutes "Indianness," as no link between the skeleton and modern tribes could be demonstrated to the court's satisfaction. And third, the case exemplifies one of the divisions that exist between the worldviews of the scientific community and many Native Americans.

See also *Native American Graves Protection and Repatriation Act; Bush, George H. W.*

Cynthia-Lou Coleman

BIBLIOGRAPHY

Berkhofer, Robert F., Jr. *White Man's Indian: Images of the American Indian from Columbus to the Present*. New York: Vintage Books, 1978.

Clifford, James. *The Predicament of Culture: Twentieth Century Ethnography, Literature and Art*. Cambridge, Mass.: Harvard University Press, 1988.

Coleman, Cynthia-Lou, and Erin V. Dysart. "Framing of Kennewick Man against the Backdrop of a Scientific and Cultural Controversy." *Science Communication*, vol. 27, no. 1 (2005): 1–24.

Deloria, Vine, Jr., and Daniel R. Wildcat. *Power and Place: Indian Education in America*. Golden, Colo.: Fulcrum Resources, 2001.

James, Keith. *Science and Native American Communities: Legacies of Pain, Visions of Promise*. Lincoln: University of Nebraska Press, 2001.

Jennings, Francis. *The Invasion of America: Indians, Colonialism and the Cant of Conquest*. New York: W. W. Norton & Company, 1976.

Nabokov, Peter, ed. *Native American Testimony*. New York: Penguin Books, 1991.

Thomas, David Hurst. *Skull Wars: Kennewick Man, Archeology, and the Battle for Native American Identity*. New York: Basic Books, 2000.

Warrior, Robert Allen. *Tribal Secrets: Recovering American Indian Intellectual Traditions*. Minneapolis: University of Minnesota Press, 1995.

White, Richard, and John M. Findlay. *Power and Place in the North American West*. Seattle: University of Washington Press, 1999.

Keokuk

Keokuk (c. 1783–1848) was born in the Sauk town of Saukenuk. He became a war chief during the War of 1812 (1812–1814) while the previous war chief, Black Hawk, was away fighting against the United States.

An accomplished orator and a major tribal spokesman in dealing with the United States, Keokuk became convinced that conflict with the Americans would be disastrous. Consequently, in 1830 when Black Hawk broke the treaty that moved the Sauks to Iowa and led his followers into Illinois, Keokuk kept other Sauks and allied Meskwakis (Fox) from joining them. The resulting Black Hawk War of 1832 ended with the defeat and decimation of Black Hawk's band. The victorious U.S. government demanded that the Sauks and Meskwakis give up land in eastern Iowa and accept Keokuk as the principal chief of a confederated tribe.

Since by Sauk culture Keokuk was not entitled to such status—nor was he a Meskwaki, and the land he had signed away was mostly theirs—his new power angered many in both tribes, a dispute furthered by his apparent misuse of tribal monies. Moreover, the American government pressured Keokuk to sell more land in the Rock River country. In the face of growing Indian debt to white traders and decreasing game, he sold the land in 1837. In 1842 Keokuk and other tribal leaders gave up their remaining land in Iowa in return for money and land in Kansas. Keokuk left Iowa in 1845 and died in Kansas three years later.

See also *Black Hawk; Black Hawk War (1832)*.

Thomas Burnell Colbert

BIBLIOGRAPHY

Colbert, Thomas Burnell. "The Hinge on Which All Affairs of the Sauk and Fox Indians Turn": Keokuk and the United States Government." In *Enduring Nations: Native Americans in the Midwest*, edited by R. David Edmunds, 54–71. Urbana: University of Illinois Press, 2008.

Hagan, William T. *The Sac and Fox Indians*. Norman: University of Oklahoma Press, 1958.

Nichols, Roger L., ed. *Black Hawk's Autobiography*. Ames: Iowa State University Press, 1999.

Kicking Bird

Kiowa chief Kicking Bird (Watohkong, Tene-angpote) (c. 1835–1875) is best remembered as a peace advocate during an era of war on the southern plains. He emerged as a leader in the 1860s, at a time when Kiowas faced dwindling buffalo herds and increasing pressure from the United States to give up hunting and accept a reservation. Some prominent Kiowas, such as Satanta and Lone Wolf, favored war in defense of their land and way of life. Kicking Bird, however, believed that the Kiowas could survive only if they avoided conflict with the Americans.

He was among the Kiowas' representatives at the Treaty of Medicine Lodge Creek in 1867, when the tribe agreed to a reservation in Indian Territory. Soon after, poor conditions led Kiowas to renew raiding into Texas. Pressured by his people, Kicking Bird himself led a war party in 1870, although he subsequently disavowed violence. In 1871, when the U.S. Army arrested Satanta, along with Kiowa war leaders Satank and Big Tree, Kicking Bird tried to keep his people from retaliating. Later, he helped to secure the releases of Satanta and Satank.

The U.S. Army finally broke Kiowa military power in the Red River War of 1874–1875. As the fighting ended, the United States named Kicking Bird principal chief. The Americans decided that some of those who fought against them deserved to be imprisoned at Fort Marion in Florida, and they gave Kicking Bird the job of choosing who would go. Soon after completing this task, Kicking Bird suddenly died. Some believed he was poisoned or killed by witchcraft as retribution for having worked with the United States.

See also *Medicine Lodge Creek (1867), Treaty of; Red River War (1874–1875); Satanta*.

Andrew Denson

BIBLIOGRAPHY

Mayhall, Mildred P. *The Kiowas*. Norman: University of Oklahoma Press, 1962.

Nye, W. S. *Carbine and Lance: The Story of Old Fort Sill*. Norman: University of Oklahoma Press, 1937.

Killdeer Mountain (1864), Battle of

The United States–Dakota War of 1862 spilled over the border from Minnesota where it had begun into the Dakota Territory when some of the Santee Sioux fled westward. In summer 1863, convinced that these Indians posed a danger to settlements in Minnesota, General John Pope sent the "Punitive Expedition" under General Albert Sully and General Henry H. Sibley into present-day North Dakota. The army engaged in a series of small skirmishes with various Dakota bands in the region, including the Battle of Whitestone Hill in south-central North Dakota on September 3, 1863—the largest Indian battle fought in the state.

In 1864 General Sully brought another army expedition into the northern part of the Dakota Territory. With about 2,200 men, he established Fort Rice on the western bank of the Missouri River, a few miles above the mouth of the Cannonball River. On July 28, 1864, Sully's command attacked a village of approximately 1,600 Sioux lodges in the Killdeer Mountains, near present-day Watford City, North Dakota. The Indians managed to resist the soldiers until sundown, when they fled with the women and children from the camp. They left behind lodges, buffalo robes, food, and supplies, which were destroyed by the army.

It was estimated that 100 to 150 Indians died in the battle, while five of Sully's troops were killed and ten were wounded. The Battle of Killdeer Mountains was the last large-scale Indian battle in the North Dakota region and effectively put an end to the Sioux resistance.

See also *Sibley, Henry Hastings; United States–Dakota War of 1862*.

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BIBLIOGRAPHY

Carley, Kenneth. *The Sioux Uprising of 1862*. St. Paul: Minnesota Historical Society, 1976.

Pfaller, Louis. "Sully's Expedition of 1864, Featuring the Killdeer Mountains and Badlands Battles." *North Dakota History*, vol. 31 (January 1964): 25–77.

Kingsbury, Cyrus B.

As a missionary from the interdenominational American Board of Commissioners for Foreign Missions (ABCFM), Cyrus B. Kingsbury (1786–1870) worked among the Indian tribes in the southeastern United States and later in Arkansas and the Indian Territory. Kingsbury was ordained in 1816 and sent by the ABCFM to establish mission schools among the five southeastern tribes.

In 1817 Kingsbury established the Brainerd Mission among the Cherokee near present-day Chattanooga, Tennessee. In June 1818 he moved to Mississippi and established the Eliot Mission among the Choctaw on the Yazoo River. He founded the Mayhew Mission, also among the Choctaw, in 1820 in present-day Lowndes County, Mississippi. These missions were manual labor boarding schools, where academics were combined with training in a trade or in farming. Kingsbury believed that Indians should be taught in their own languages so that the schools did not alienate parents. Kingsbury hoped to make his missions into model communities that demonstrated the values of the Christian lifestyle.

When the Choctaw sold their lands to the government and moved into Arkansas in 1830, Kingsbury moved with them and worked at various places in the state between 1830 and 1836, ministering to the Choctaw, Osage, Creek, and Cherokee peoples. When many of these tribes were forced to move into the Indian Territory, Kingsbury also moved and established the Pine Ridge Mission near Ft. Towson. He worked there until his death.

See also *Education: Mission Schools; Missions and Missionaries; Removal.*

Mark S. Joy

BIBLIOGRAPHY

- DeRosier, Arthur H., Jr. "Cyrus Kingsbury—Missionary to the Choctaws." *Journal of Presbyterian History*, vol. 50 (1972): 267–287.
- McLoughlin, William G. *Cherokees and Missionaries, 1789–1984*. New Haven, Conn.: Yale University Press, 1984.
- Walker, Robert Sparks. *Torchlight to the Cherokees: The Brainerd Mission*. New York: MacMillan Company, 1931.

Kintpuash (Captain Jack)

One of the most noted nineteenth-century Indian leaders, the Modoc chief Kintpuash (c. 1840–1873), known as Captain Jack to whites, fought against the United States' Indian policy and gained notoriety for his role in the Modoc

War (1872–1873). In 1852 he witnessed the murder of his family and the displacement of his people as whites moved into Modoc territory. Conflict with white settlers forced the Klamaths, Modocs, and Yahooskin band of Snakes to sign a treaty with the United States in 1864. Kintpuash signed the treaty, agreeing to move to the Klamath reservation. The Modocs moved in 1865 but experienced harsh treatment from agency officials and the Klamaths, which drove some Modocs back to California between 1865 and 1871. In 1872 the U.S. military confronted the Modocs at Lost River in California to force them back to the Klamath reservation. Kintpuash led his people to the lava beds near Tule Lake after the army opened fire on them, beginning the Modoc War.

On April 11, 1873, Kintpuash and his men killed four peace commissioners, including General Edward Canby, the highest ranking officer to die in the United States–Indian Wars (1848–1891). Kintpuash agreed to kill the commissioners after his men convinced him that the United States would treat them unfairly and severely. He and his men then regrouped in the lava beds. In late May the United States military infiltrated the lava beds with the aid of Warm Spring scouts, forcing the Modocs to move. In June Kintpuash surrendered. A military court tried him for murdering the peace commissioners, found him guilty, condemned him to death, and hanged him in October 1873. After Kintpuash's death, he was decapitated and his head sent to the Smithsonian Institution.

See also *Modoc War; United States–Indian Wars (1848–1891).*

Rebecca Bales

BIBLIOGRAPHY

- Brown, Dee. *Bury My Heart at Wounded Knee: An Indian History of the American West*. New York: Henry Holt and Company, 1970.
- Murray, Keith. *The Modocs and Their War*. Norman: University of Oklahoma Press, 1959.

Kiowa War

See *Red River War*.

Kirkland, Samuel

Samuel Kirkland (1741–1808) was a Presbyterian minister and missionary to the Oneida tribe of the Iroquois in upstate New York. A protégé of Eleazar Wheelock, the Connecticut missionary and founder of Dartmouth College, Kirkland worked for decades under the auspices of the Scots Society for Propagating Christian Knowledge. Kirkland founded an

Indian school, Hamilton-Oneida Academy (later Hamilton College), in 1793. He was instrumental in convincing the Oneida to support the American cause during the Revolutionary War (1775–1783).

As a missionary to the Iroquois, Kirkland learned the varied languages of the Mohawk, Seneca, Oneida, and Tuscarora tribes. After his ordination to the ministry, he moved to upstate New York and lived among the Iroquois until the outbreak of the Revolutionary War. He tried without success to convince the Six Nations to side with the Americans; only the Oneida and Tuscarora complied with his request. During the war Kirkland served as a chaplain, returning to live with the Oneida at war's end.

Kirkland worked to alleviate the suffering of the Oneida during and after the war. After he was accused of neglecting his charges, the Scots Society for Propagating Christian Knowledge sent two missionaries, Jeremy Belknap and Jedidiah Morse, in 1796 to investigate the condition of the Oneida; they were favorably impressed by Kirkland's work and countered all accusations. Even so, the Scots Society dropped their support of Kirkland, who refused to be dissuaded from his self-imposed mission and worked with the Indians until his death in 1808.

See also *American Revolutionary War; Missions and Missionaries.*

Russell M. Lawson

BIBLIOGRAPHY

Kirkland, Samuel. *The Journals of Samuel Kirkland: 18th Century Missionary to the Iroquois, Government Agent, Father of Hamilton College*. New York: Hamilton College, 1980.

Ronda, James P. "Reverend Samuel Kirkland and the Oneida Indians." In *The Oneida Indian Experience: Two Perspectives*, edited by Jack Campisi and Laurence M. Hauptman, 23–30. Syracuse, N.Y.: Syracuse University Press, 1988.

Knox, Henry

As the first secretary of war for the United States, Henry Knox (1750–1806) helped establish a national Indian policy that treated Native American tribes as sovereign nations. The lawmakers who formed this policy rejected conquest as the means for acquiring Indian lands and instead advocated that the United States purchase such lands through treaties. They were also proponents of "civilizing" Indians as a first step in eventually assimilating the Natives into the mainstream American population.

Born in Boston, Massachusetts, Knox served as colonel of the Continental Regiment of Artillery in the Continental

Army. During the American Revolutionary War (1775–1783), Knox's December 1775 raid on Fort Ticonderoga in New York provided artillery and captured cannons for the American army in Boston. Knox further distinguished himself throughout the war, and his victory at the 1781 Battle of Yorktown earned him a promotion to general. At war's end, Knox replaced George Washington as the head of the Continental Army until it disbanded a few months later.

Knox returned to public life in March 1785 when he was appointed secretary of war for the new U.S. government. Knox retained the post after the Constitutional Convention and election of Washington as president, holding it until 1794. Much of Knox's work as secretary related to Indian affairs. After the Revolutionary War, the United States told Native American tribes that they had forfeited their rights to tribal lands due to their alliances with Great Britain, and that the U.S. victory over Britain had endowed the new country with title to Indian lands by the right of conquest. This attitude produced tension and conflict between Indians and Americans all along the United States' western frontiers. Without the financial or military means to force large numbers of Indians from their territories, Knox pursued a different strategy to appease a land-greedy public, to instill order on the frontier, and to treat fairly the Indians who held lands in the West.

Knox's more benign Indian policy was most evident in the Northwest Ordinance (1787). The ordinance declared that Americans could not settle the backcountry before the federal government obtained it through treaties and paid for it with annual payments. The ordinance also established a system to license traders to deter fraud and standardized punishments for crimes committed on or by Indians in the Ohio Territory. Additionally, it declared that non-Indians needed a passport to travel on Indian lands. These provisions were extended in 1796, after Knox left office, with the establishment of the factory system that standardized and regulated the nation's Indian trade.

In letters to George Washington, Knox stated that he believed the United States could not claim tribal lands unless it obtained the consent of the Indians or acquired the land by conquest in a just war. This was a generally accepted principle of the law of nations at that time. He determined that Indian tribes were separate and distinct nations and therefore concluded that all land cessions had to be arranged through formal treaties. As a result, Knox tried to obtain Indian lands cheaply, peacefully, and honorably. At the same time, he also

called for a plan to help Indians assimilate into what Knox called American “civilization.” Knox believed that once Indians adopted an Anglo-American farming lifestyle, they would no longer need much of the land that they used for hunting and would ultimately cede their excess lands. The United States could then sell those lands to white Americans, thus providing for an orderly expansion to the West. Washington, Knox, and their allies in Congress were able to implement aspects of this policy in the Trade and Intercourse Act of 1790.

Knox’s ideas about “civilizing” the Indians shaped American policy through Thomas Jefferson’s administration and beyond. In many of the treaties signed under Knox, the United States provided tools and other materials that assisted Natives to become herders, farmers, and spinners or weavers of cotton. These treaties also often included provisions that declared the United States would recognize a tribe’s borders, respect its internal autonomy, and protect it from trespassing, squatting, and other criminal behavior.

Knox’s plan largely failed for several reasons. First, he did not anticipate how quickly the U.S. population would grow and how many Americans would want to move West. Second, most Americans refused to accept the idea that Natives held title to their lands. Third, Knox failed to appreciate the value of Native culture or understand that most Native Americans were not interested in acculturation to Anglo-American ways. Moreover, although many Natives

did incorporate elements of American society into their lives, this did not necessarily mean that they were interested in relinquishing the rights to their land.

Although Knox’s policy was grounded on these flawed presumptions, more than one scholar has pointed out that his vision for American expansion was more honorable than the policy of conquest that preceded it and the forced removal of the tribes that followed it. Knox believed that if the United States did not treat Indians humanely and fairly, the rest of the world would find the American ideals of equality and property rights hypocritical.

Knox returned to private life in 1795, although he continued to advise the government and helped to establish the Indian agent system. He worked as a cattle herder, ship builder, and brick maker until his death in 1806.

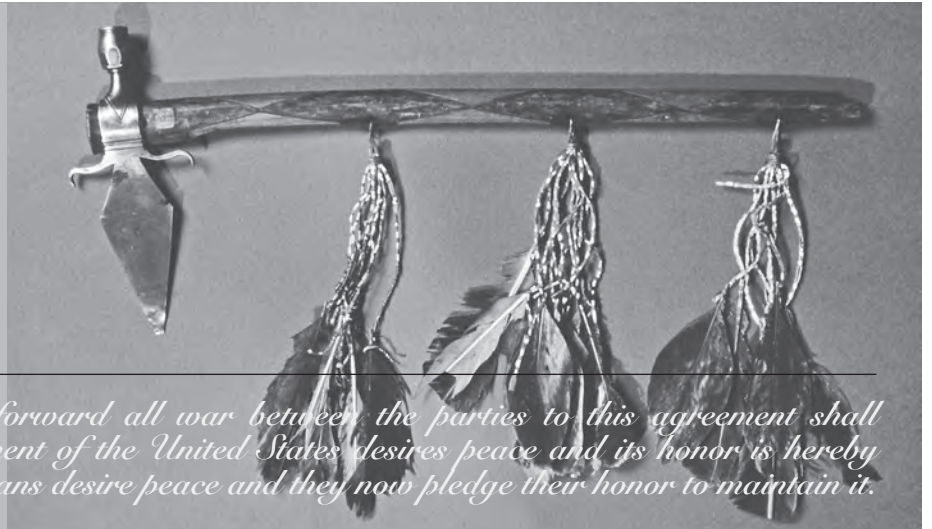
See also *Assimilation and Acculturation; American Revolutionary War (1775–1783); Civilization Program; Indian Agents; Indian Policy of the Continental Congress; Northwest Ordinance; Trade and Intercourse Acts; Washington, George.*

Andrew K. Frank

BIBLIOGRAPHY

- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Puls, Mark. *Henry Knox: Visionary General of the American Revolution*. New York: Palgrave Macmillan, 2008.

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Article 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they now pledge their honor to maintain it.

LaDuke, Winona

Winona LaDuke (1959–) is an Anishinaabeg (Ojibwe) activist and author who lives on the White Earth reservation in Minnesota. She began her activism as a student at Harvard University, when she became involved in Navajo (Diné) attempts to control energy development and stop uranium mining in the late 1970s. She earned her bachelor's degree from Harvard in 1982 and a master's degree in economic development from Antioch University.

LaDuke has written dozens of articles and five books. Her books include *Last Standing Woman* (1997; fiction), *All Our Relations: Native Struggles for Land and Life* (1999; nonfiction), and *The Sugarbush* (1999; children's nonfiction).

LaDuke founded the White Earth Land Recovery Project, which works to regain the original land base of her reservation, preserve its culture and language, and encourage sustainable local economic development. She also founded Honor the Earth, which provides political and financial support for Native American environmental organizations. She was the Green Party's vice presidential candidate in the 1996 and 2000 elections (with Ralph Nader) and has held a leadership role in a number of organizations, including Greenpeace USA, the Indigenous Women's Network, and the Indigenous Environmental Network.

LaDuke was selected as one of *Time* magazine's most promising leaders under age forty in 1994, won the Reebok Human Rights Award, and was named *Ms.* magazine's "Woman of the Year." She has appeared in a number of films and travels widely for political and speaking engagements.

Lilias C. Jones Jarding

BIBLIOGRAPHY

Honor the Earth, <http://www.honorearth.org/aboutus/composition/staff/winona.html>.

LaDuke, Winona. *All Our Relations: Native Struggles for Land and Life*. Cambridge, Mass.: South End Press, 1999.



Winona LaDuke received the Reebok Human Rights Award in 1988. Among her many activities, she strives to encourage sustainable local economic development.

LaFlesche Family

The LaFlesche family, of French, Ponca, Omaha, Iowa and Anglo-American ancestry, originated among the mixture of cultures and peoples who lived on the Omaha reservation in the nineteenth century. The LaFlesche children adapted to the dominant Anglo-American culture and supported assimilation, though never completely forsaking or forgetting their Indian heritage. Their significance stems less from their impact on policy and more on how policy shaped this particularly accomplished family.

Joseph LaFlesche (c. 1820–1888), also known as Estamaza or Instamaza, was the son of a French father and a Ponca or Omaha mother. A principal Omaha chief adopted him, however, and he became a leader among those Omahas who converted to Christianity, lived in frame houses, and sent their offspring to a Presbyterian mission school. Joseph married an Ioway woman named Mary Gale (Hinnuaganun; 1829–1909), daughter of army surgeon John Gale and Nicomi, an Omaha-Iowa woman.

Susette LaFlesche (also Josette or “Bright Eyes”; 1854–1903), the daughter of Joseph and Mary, became a nationally known spokeswoman for Indian rights. She and her husband, Thomas H. Tibbles, achieved particular prominence when they accompanied the famous Ponca leader Standing Bear on his lecture tour in 1879–1880. The tour was designed to generate support among eastern “Friends of the Indian” for halting Ponca removal from Dakota Territory to Indian Territory. Standing Bear later attempted to lead some of his people home, so that he could bury his son, but he was arrested and put on trial. His case served as a catalyst for nineteenth-century Indian reform.

Another daughter of Joseph and Mary, Susan LaFlesche (1865–1915), became the first Indian woman medical doctor in the country after graduating from Hampton Institute and the Women’s Medical College of Pennsylvania. In 1889 she served as physician for the Omaha reservation boarding school, and the next year she became the physician for the entire agency. She resigned in 1893, married Henri Picotte (Sioux), and practiced medicine and founded a hospital in Bancroft, Nebraska. She, like her father, was a temperance advocate and an Indian rights activist. Although proud of her Indian ancestry, she also supported allotment of tribal lands and education outside the tribe. After her husband’s death in 1905, Susan became a missionary under the auspices of the Presbyterian Board of Home Missions, working simultaneously as a teacher, field worker, and physician. She remained at this post until her death.

Joseph LaFlesche’s second wife was Ta-in-ne or Elizabeth Edau, an Omaha woman. This marriage produced three children, including Francis (Zhogaxe or “Woodworker”; 1857–1932), Lucy, and Cary. (Joseph also had a third wife, but that union produced no children.)

As a child, Francis lived an Omaha life, learning the language and participating in tribal traditions. Once Joseph converted to Christianity, however, he disengaged from Francis’s mother, continuing to support her financially but removing her from the family circle. This humiliated Francis and added to his feelings of being marginalized, not only within the family but also within the tribe, since Joseph’s enthusiasm for acculturation was not universally shared.

Francis attended the Presbyterian mission school, became a talented interpreter, and in 1881 left Nebraska to work as a clerk at the Office of Indian Affairs (OIA) in Washington, D.C. While touring with Susette, Tibbles, and Standing Bear, Francis met ethnologist Alice Fletcher, and by 1882 the pair had begun their decades-long anthropological collaborations. Francis would interview members of the Omaha tribe about their ceremonies and translate and record the words and music. Then Fletcher and Francis wrote up descriptions of the ceremonies that were published by the Peabody Museum. Although Francis’s involvement was crucial, Fletcher’s name alone appeared on the title page. Francis began to demand more credit for his work and eventually began publishing on his own. He is now widely considered to be the first Native American anthropologist. The personal relationship between Fletcher and Francis approximated that of mother and son. He lived with her in Washington, D.C.

Eventually Francis earned a law degree. He remained at the OIA until 1910 when he moved to the Smithsonian’s Bureau of American Ethnology. He worked at the bureau until his retirement in 1929. His primary works focused on the Osages and the Omahas. He also published a memoir about his Indian boarding school experience entitled *The Middle Fives* (1963).

Francis LaFlesche’s policy work was largely local and low key. When Alice Fletcher received the appointment to allot the Omaha reservation, Francis assisted her and clearly supported the policy. Like his father and half-sisters, he assumed the ownership of private property was the best option for Indian people. He did, however, oppose allowing Indians to lease their allotments, fearing this would ultimately result in the loss of their lands.

See also *Assimilation and Acculturation; Bureau of Indian Affairs; Ponca Removal; Standing Bear.*

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BIBLIOGRAPHY

- Green, Norma Kidd. *Iron Eye's Family: The Children of Joseph LaFlesche*. Lincoln, Neb.: Johnson Publishing Co., 1969.
- LaFlesche, Francis. *The Middle Five: Indian Schoolboys of the Omaha Tribe*. Lincoln: University of Nebraska Press, 1963.
- Mark, Joan. *A Stranger in Her Own Land: Alice Fletcher and the American Indians*. Lincoln: University of Nebraska Press, 1988.
- Mathes, Valerie Sherer. "Iron Eye's Daughters: Susette and Susan LaFlesche, Nineteenth Century Indian Reformers." In *By Grit and By Grace: Eleven Women Who Shaped the American West*, edited by Glenda Riley and Richard W. Etulain, 135–152. Golden, Colo.: Fulcrum Publishing Co., 1997.
- Smith, Sherry L. "Francis LaFlesche and the World of Letters." *American Indian Quarterly*, vol. 25 (Fall 2001): 579–603.
- Tong, Benson, and Dennis Hastings. *Susan LaFlesche Picotte, M.D.: Omaha Indian Leader and Reformer*. Norman: University of Oklahoma Press, 1999.

La Follette, Robert M., Sr.

Wisconsin's U.S. representative from 1885 to 1891, governor from 1901 to 1906, and senator from 1906 until his death in 1925, Robert Marion La Follette Sr. (1855–1925) staunchly believed in America as the land of opportunity for all. In his efforts to gain rights for various groups facing discrimination, he included women, African Americans, Jews, and Native Americans.

As a freshman member of the House of Representatives in 1885, La Follette was assigned to the traditionally ineffectual Indian Affairs Committee. There, he worked avidly to protect tribes' property and rights. Although Helen Hunt Jackson's *A Century of Dishonor* (1881) and *Ramona* (1884) had sparked concern about the plight of Native Americans, most Americans were far more supportive of the continued expansion and development of urban, industrialized America than they were of Indian rights. Congress continued to deprive Native American tribes of their traditional lands and usurp their oil, mineral, fishing, and timber rights on remaining lands. La Follette called for greater Indian involvement in their own affairs. He also charged that many Indian agents were not acting in the best interests of their charges.

As a U.S. senator, La Follette successfully championed a bill in 1908 that protected the timber rights of the Menominees. He also sought to introduce sustained yield logging and a plan to use profits to develop reservation infrastructure, such as homes and schools. His efforts in the

Senate also protected Choctaw and Chickasaw coal lands from acquisition by the United States and brought him into open conflict with President Theodore Roosevelt, thereby permanently damaging their relationship.

Throughout his lengthy career, La Follette remained vigilant in his efforts to protect Indian lands from corporate exploitation.

See also *Forestry; Indian Agents; Jackson, Helen Hunt.*

Nancy C. Unger

BIBLIOGRAPHY

- La Follette, Robert M. *A Personal Narrative of Political Experiences*. Madison: University of Wisconsin Press, 1961.
- Unger, Nancy C. *Fighting Bob La Follette: The Righteous Reformer*. Chapel Hill: University of North Carolina Press, 2000; Madison: Wisconsin Historical Society, 2008.

Lake Mohonk Conferences

The Lake Mohonk conferences of the Friends of the Indians were begun in 1883 by Albert Smiley, a Quaker philanthropist interested in Indian reform. President Rutherford B. Hayes appointed Smiley to the Board of Indian Commissioners in 1879. This board was founded in 1869 and consisted of up to ten men who served without pay to advise the secretary of the interior on Indian affairs. Smiley found that the board's meetings in Washington were too brief to allow for full consideration of the issues presented, so he decided to hold a conference at the Lake Mohonk resort near New Paltz, New York, which he and his brother Alfred had purchased in 1869. The first Lake Mohonk conference was held in October 1883, and thereafter the conferences were held annually until 1916. The Lake Mohonk conferences were always closely, yet unofficially, connected to the Board of Indian Commissioners, and the annual conferences virtually became the major meetings of the board.

Those who attended the conferences were among the primary leaders of the loosely defined "Friends of the Indians" movement, and they typified this group's approach to Indian reform. Strongly ethnocentric and assimilationist, the conference attendees advocated Indian education, the breaking down of tribal ties, and equipping Indians to act on their own as individuals. The allotment of reservation lands into individual family homesteads was a major part of this latter goal, as was achieving U.S. citizenship for the Indians. Conference attendees strongly supported Christian evangelization of the Indians, and in general saw civilization,

Christianization, and Americanization as part of the same process. Lyman Abbott, a Congregationalist minister and Christian journalist, was a frequent speaker, as was Herbert Welsh, the founder of the Indian Rights Association. Merrell Edward Gates, president of Rutgers College and later of Amherst College, attended regularly and was president of the conference for eight years. Thomas Jefferson Morgan, commissioner of the Office of Indian Affairs from 1889 to 1893, was a frequent guest and firmly agreed with the conference's goals on education and assimilation of the Indians.

The meetings of the Lake Mohonk conferences were infused with a spirit of deep religiosity. Some scholars have suggested that this was due in part to Smiley's own religious convictions, and also to the large role played in the conferences by missionaries and clergymen. In the rosters of those who attended the conferences from 1883 to 1900, more than one-fourth were ministers, the wives of ministers, or other representatives of church and mission groups. The meetings were begun with a prayer, and religious terminology was common in the presentations and discussions.

At the conferences, the attendees heard presentations by prominent spokesmen involved in Indian affairs and discussed problems and potential solutions. Resolutions were debated and adopted that served as the basis for drawing public attention to the issues and for lobbying efforts to secure legislation or administrative reforms. All of the resolutions from one meeting would be incorporated into a platform. Smiley insisted that anything in the conference's platform had to represent the consensus of all those attending the meeting. Since many politicians and bureaucratic officials attended the gatherings, the conference's suggestions were often implemented by the government. Senator Henry L. Dawes (R-Mass.), the sponsor of the 1887 General Allotment Act (Dawes Act), was a frequent speaker at Lake Mohonk, and, after passage of his bill, he credited the members of the conferences with creating the awareness of the issue that allowed the bill to be adopted. The Lake Mohonk conferences and the Friends of the Indians generally brought Indian issues to public attention more effectively than other similar groups had done before.

In the early 1900s, the influence of the Lake Mohonk conferences began to decline. After the Spanish-American War (1898), the conferences broadened their purview to include those people in the territories the United States had taken over as a result of the war. The name of the conference was changed to Friends of the Indians and Other Dependent Peoples. Albert Smiley retired to California and died in

1912, and in 1916 the last of the annual conferences at Lake Mohonk was held. A new generation of reformers, less ethnocentric and more concerned with the rights of the Indians to preserve their cultural heritage, found the approach of the "Friends of the Indians" unsatisfactory. In October 1929, the conference was briefly revived to discuss the findings of the 1928 *Meriam Report*, which had been published the previous year.

See also *Abbott, Lyman; Allotment in Severalty; Assimilation and Acculturation; Dawes, Henry L.; Gates, Merrill E.; General Allotment Act (Dawes Act) of 1887; Hayes, Rutherford B.; Indian Rights Association (IRA); Meriam Report; Morgan, Thomas J.; Welsh, Herbert.*

Mark S. Joy

BIBLIOGRAPHY

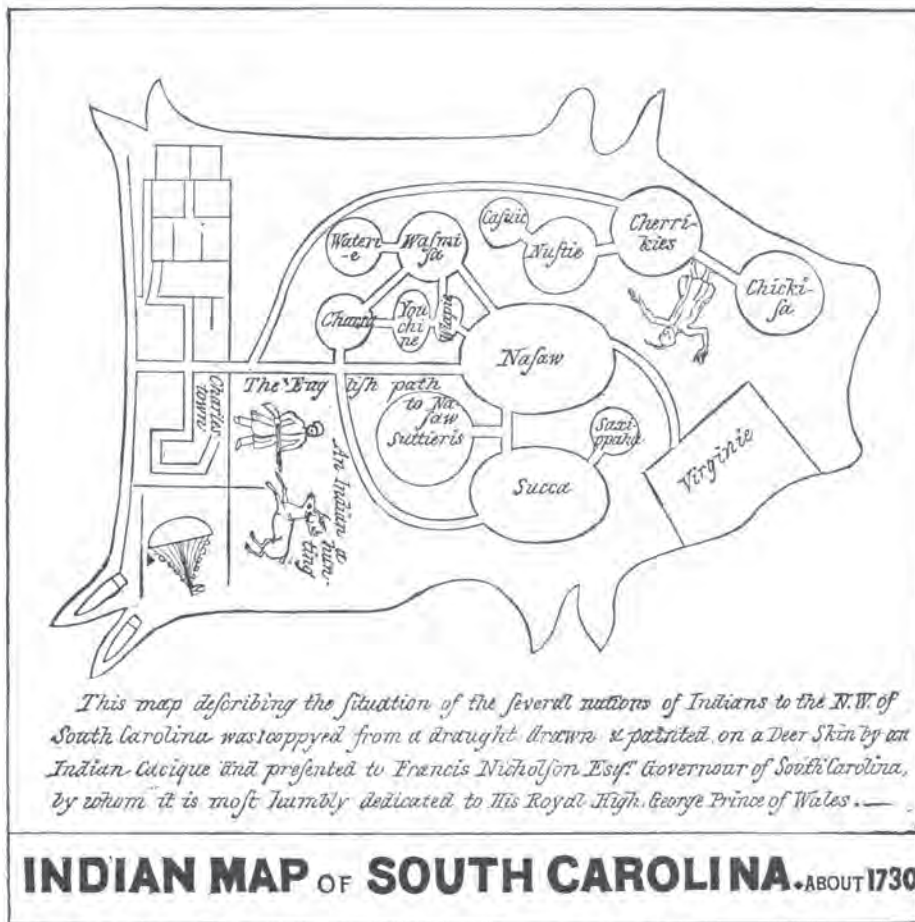
- Burgess, Larry E. *The Lake Mohonk Conference of Friends of the Indian: Guide to the Annual Reports*. New York: Clearwater Publishing Company, 1975.
- Milner Clyde A., II, and Floyd A. O'Neil, eds. *The Churchmen and the Western Indians*. Norman: University of Oklahoma Press, 1985.
- Prucha, Francis Paul. *American Indian Policy in Crisis: Christian Reformers and the Indian, 1865-1900*. Norman: University of Oklahoma Press, 1976.

Land Claims Settlement Acts

Over the last few decades, Native governments have used a variety of measures to recover their homelands. One means they have used is the Land Claim Settlement Act, a legislative act that settles outstanding legal claims and returns land to an indigenous claimant community.

For thousands of years, indigenous societies held exclusive title and rights to land that comprises the present-day United States. However, these societies ceded their lands, first as the European imperial powers established settlements in North America, and later as the United States expanded across the continent. Through war, depopulation, and cessions by treaties, Native societies were divested of most of their lands by the time of the reservation era. For example, between 1778 and 1871 the United States ratified 372 treaties, which resulted in a loss of approximately two billion acres of land.

Beginning with the passage of the 1887 General Allotment Act (also called the Dawes Act), approximately 90 million acres of the remaining 140 million acres of reservation and tribal lands were divested from indigenous control. Federal, state, and local officials worked in conjunction with private business interests to liquidate Indian title. The passage



Maps such as this Cherokee depiction of South Carolina, circa 1730, are a means of proving a Native nation's historical possession of its land.

of the 1934 Indian Reorganization Act halted the massive loss of land.

Indigenous peoples throughout history resisted the loss of their lands and resources. Within a legal context, three primary strategies have evolved in seeking land claims. The primary strategy is litigation for damages. Although the Court of Claims was established for American citizens in 1855, Native claims were excluded until 1946 with the passage of the Indian Claims Commission Act. The act intended to put an end to all existing Indian claims with a final settlement and move toward the termination of the federal government's trust responsibility with tribes. With the dissolution of the Indian Claims Commission on September 30, 1978, tribes were awarded over \$800 million; however, each claimant award was offset by other federal "costs" charged to the particular tribe. The result was the federal government often paid less than 50 percent of the original award. Pending claims were transferred to the U.S. Court of Claims.

Tribes also have sought to consolidate and repatriate lands, placing them into trust status. After allotment, tribal

lands became increasingly fractionated as multiple heirs claimed ownership of land parcels after the individual owners died. While the Indian Land Consolidation Act, enacted in 1983 and amended in 2000, and the American Indian Probate Reform Act of 2004 partially solved the inheritance issues and answered some constitutional questions, tribes have continued to use funds to purchase lands on and off reservations.

The repatriation of lands involves the petitioning of Congress and state legislators, and on rare occasions negotiating with private land owners to restore lands deemed important. After decades of struggle, on December 15, 1970, President Richard Nixon signed the Taos Blue Lake Act, returning forty-eight thousand acres to the Taos Pueblo. The act was the first piece of legislation to return a large portion of land to a tribe. In another significant return of land, on March 2, 1978, the Narragansetts received 1,800 acres. In 2000 the Department of the Army transferred 4,900 acres at the former Fort Wingate Army Depot to the Bureau of Indian Affairs for the Navajos and Zunis.

SELECT CHRONOLOGY OF LAND CLAIMS SETTLEMENT ACTS, DECISIONS, AND ISSUES

- 1887 General Allotment or Dawes Act
- FEBRUARY 28, 1891 Land Allotment Act
- MAY 27, 1902 General Appropriation Act
- 1903 *Lone Wolf v. Hitchcock*
- 1905 *United States v. Winans*
- MAY 8, 1906 Burke Act
- JUNE 8, 1906 Antiquities Act of 1906
- 1908 *Winters v. United States*
- MAY 29, 1908 Allotted Lands Selling Act
- JUNE 25, 1910 Restricted Trust Lands Act
- 1922 Bursum Bill controversy
- 1923 Land Purchase Act
- MAY 29, 1924 Indian Oil Leasing Act
- JUNE 7, 1924 Pueblo Lands Act
- MAY 31, 1933 Pueblo Lands Board Act
- 1934 Indian Reorganization Act or Wheeler-Howard Act
- 1935 *United States v. Creek Nation* Supreme Court decision
- 1941 *The United States as Guardian of Hualapai v. Santa Fe Pacific Railroad Company*
- 1944 California Indian land claims settlement
- AUGUST 13, 1946 Indian Claims Commission Act
- 1950 California Indian land claims payment
- 1957 Mohawk land claim under the Treaty of 1784
- 1958 Miccosukee land claims controversy begins
- 1959 Alaska Native land claims begin
- JUNE 27, 1960 Archaeological and Historic Preservation Act
- 1965 Alaska Federated Natives empowered to pursue land claims
- 1965 California Indian land claims settlement
- OCTOBER 15, 1966 National Historic Preservation Act of 1966
- MAY 26, 1965 Miami Indian land claims settlement
- MARCH 20, 1967 Restructuring of the Indian Claims Commission
- JUNE 10, 1967 Seminole Indian land claims decision
- AUGUST 6, 1967 Sioux Tribes Land Claims settlement
- JANUARY 25, 1968 Apache land claims settlement
- OCTOBER 24, 1968 Yavapai land claims settlement
- MAY 18, 1969 Klamath land claims settlement
- JANUARY 1, 1970 National Environmental Policy Act of 1969
- MAY 14, 1970 Seminole land claims settlement
- JUNE 29, 1970 Navajo land claims settlement
- SEPTEMBER 30, 1970 Osage land claims settlement
- APRIL 2, 1971 Deganeveda-Quezalquotl University receives title to a surplus military facility
- DECEMBER 15, 1970 Nez Perce and Colville land claims settlement
- DECEMBER 15, 1970 Taos Blue Lake Act
- OCTOBER 15, 1971 North Slope Alaska land claim suit
- DECEMBER 18, 1971 Alaska Native Claims Settlement Act
- MAY 20, 1972 Yakama Indians land restoration order
- JANUARY 21, 1974 Oneida land claims Supreme Court decision
- OCTOBER 8, 1976 Appropriations for Indian Claims Commission Act
- OCTOBER 13, 1976 Mesquakie land claim settlement
- JANUARY 2, 1978 Devil's Lake land claims settlement
- MARCH 2, 1978 Narragansett land claims settlement
- MARCH 13, 1978 Indian Claims Commission Act
- AUGUST 11, 1978 American Indian Religious Freedom Act
- SEPTEMBER 30, 1978 Rhode Island Indian Claims Settlement Act
- JUNE 13, 1979 Black Hills claims settlement
- AUGUST 19, 1979 Narragansett land claims settlement
- OCTOBER 31, 1979 Archaeological Resource Protection Act of 1979
- JANUARY 17, 1980 Omaha land claims for lands in Iowa along the Missouri River
- APRIL 20, 1980 Mohawk land claims for lands in the St. Lawrence seaway
- JUNE 30, 1980 *United States v. Sioux Nation*
- OCTOBER 11, 1980 Maine Indian Claims Settlement Act of 1980
- DECEMBER 30, 1982 Congress passes the Indian Claims Limitation Act
- 1983 Indian Land Consolidation Act
- JULY 5, 1984 Cayuga land claims in New York State
- SEPTEMBER 2, 1984 Pequot land claims in eastern Connecticut
- FEBRUARY 11, 1985 Wyandot land claims of Oklahoma and Kansas
- MARCH 8, 1987 Wampanoag Tribal Council of Gay Head, Inc. Indian Claims Settlement Act of 1987
- 1988 *Lyng v. Northwest Indian Cemetery Protective Association*
- AUGUST 4, 1989 Tohono O'Odham request that the Mexican government return traditional lands illegally divided by an international border under the Gadsden Purchase
- MARCH 25, 1990 Puyallup land settlement with Tacoma and state of Washington
- NOVEMBER 16, 1990 Native American Graves Protection and Repatriation Act
- OCTOBER 27, 1993 Catawba Land Claim Settlement Act of 1993
- NOVEMBER 12, 1996 American Battlefield Protection Act of 1996
- MAY 24, 1996 Executive Order 13007
- 2000 Amended Indian Land Commission Act
- NOVEMBER 6, 2000 Executive Order 13175
- 2000 *Alabama-Coushatta Tribes of Texas v. United States*
- 2005 *City of Sherrill, New York v. Oneida Indian Nation*

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BIBLIOGRAPHY

- Champagne, Duane, ed. *Chronology of Native North American History: From Pre-Columbian Times to the Present*. Detroit: Gale Research, Inc., 1994.
- King, Thomas F. *Cultural Resource Laws and Practice*. Walnut Creek, Calif.: AltaMira Press, 2004.
- Tsosie, Rebecca. "How the Land Was Taken: The Legacy of the Lewis and Clark Expedition for Native Nations." In *American Indian Nations: Yesterday, Today, Tomorrow*, edited by George Horse Capture, Duane Champagne, and Chandler Jackson, 240–279. Lanham, Md.: AltaMira Press, 2007.
- U.S. Department of the Interior, National Park Service. *National Historic Preservation Laws*. Washington, D.C.: National Center for Cultural Resources, 2002.

Native peoples continue to advocate for the return of lands or, at least, the continued preservation and use of lands and resources deemed significant (see p. 484). For most Native societies, land is not only a source of material sustenance, but a deeply ingrained aspect of a tribe's religious and cultural identity.

See also *General Allotment Act (Dawes Act) of 1887; Indian Claims Commission Act; Indian Lands Consolidation Act; Indian Reorganization Act (1934); Taos Pueblo of Blue Lake.*

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BIBLIOGRAPHY

- Indian Claims Commission. 1979 *Final Report*. Washington, D.C.: Government Printing Office, 1979.
- King, Thomas F. *Cultural Resource Laws and Practice*. Lanham, Md.: AltaMira Press, 2004.
- Sutton, Imre, ed. *Irredeemable America: The Indians' Estate and Land Claims*. Albuquerque: University of New Mexico Press, 1985.
- . "The Continuing Saga of Indian Land Claims." *American Indian Culture and Research Journal*, vol. 24, no. 1 (2000): 129–198.
- Tsosie, Rebecca. "How the Land Was Taken: The Legacy of the Lewis and Clark Expedition for Native Nations." In *American Indian Nations: Yesterday, Today, Tomorrow*, edited by George Horse Capture, Duane Champagne, and Chandler Jackson, 240–279. Lanham, Md.: AltaMira Press, 2007.
- Weil, Richard H. *A Bibliography of American Indian Land Claims*. Monticello, Ill.: Vance Bibliographies, 1987.

Law Enforcement in Indian Country

Native American tribes have a long history of addressing the public safety needs of their communities.

Pre-Columbian indigenous methods of social control varied greatly from tribe to tribe; community norms and the tribal policies and practices used to enforce those norms were often influenced by tribal religious beliefs. Many tribes employed a holistic view of antisocial behavior and sought to rehabilitate the violators of social norms and to heal victims and communities from the harm caused by offenders' actions.

Public safety in tribal communities was solely a tribal matter until 1790, when Congress passed the first Trade and Intercourse Act. This act gave the federal government jurisdiction over crimes committed by non-Indians against Indians in Indian Country. In 1817 Congress expanded federal jurisdiction to include crimes committed by Indians against non-Indians.

In 1832 the Supreme Court ruled in *Worcester v. Georgia* that state law had no applicability in Indian Country. The

Court later held in *United States v. McBratney* (1881) and *Draper v. United States* (1896) that state criminal jurisdiction did exist if the perpetrator and victim of the crime were both non-Indian. Despite the arrival of federal (and state) law in Indian Country, offenses committed in tribal territory by Indians against Indians continued to be handled solely by the tribal government.

In 1881 a member of the Brule Sioux tribe, Crow Dog, shot and killed another tribal member, Spotted Tail, on the Rosebud Sioux reservation in what is now South Dakota. In accordance with the law at the time, Crow Dog's homicide case was handled by the tribe in the traditional way. The tribe required Crow Dog to pay restitution to Spotted Tail's family. Federal authorities thought the case should have been handled differently, and Crow Dog was later prosecuted and convicted in federal court. In *Ex Parte Crow Dog* (1883), the Supreme Court ruled that no laws allowed federal jurisdiction over a crime involving only Indians. In 1885 Congress responded by creating such jurisdiction in the Major Crimes Act.

Decades later, in 1953, Congress removed federal jurisdiction over most reservations in California, Minnesota, Nebraska, Oregon, and Wisconsin (Alaska was later added to the list). This law, commonly known as Public Law 280, put the burden of reservation law enforcement on those states. In 1968 Congress passed the Indian Civil Rights Act (ICRA), which required tribal courts to provide criminal defendants with most of the guarantees of the Bill of Rights. The ICRA also restricted the fines and imprisonment that tribes could impose to the misdemeanor level. In 1978, in *Oliphant v. Suquamish Indian Tribe*, the Supreme Court held that tribal courts did not have the authority to try non-Indian criminal defendants.

The expansion of federal authority over various types of offenses during the 1800s and the restriction of tribal authority from the 1950s through the 1970s left a maze of jurisdictional laws that continue to govern law enforcement activities in Indian Country. Today, if a crime is committed in Indian Country, law enforcement officials must determine whether the perpetrator of the crime is an Indian, whether the victim is an Indian, and the type of crime involved. Depending on the results of this analysis, the alleged offender might be tried in either federal, tribal, or state court.

Police and Prosecutorial Services

As the federal government continued to assert significantly greater criminal jurisdictional authority over Indian

Country during the 1800s, federal law enforcement entities began to supplant the traditional tribal methods of social control. The first known federalized Indian police force funded and controlled by the Office of Indian Affairs (OIA, later renamed the Bureau of Indian Affairs, BIA) was established in 1869 for the Iowa and the Sac and Fox tribes in Nebraska. An OIA police force was organized for the Navajo in 1872. However, these forces were soon disbanded because they had not been authorized by Congress. The first congressionally authorized Indian police force was established in 1874 for the White Mountain Apache reservation in Arizona. This police force consisted of local tribal members who enforced laws against both Indian and non-Indian law breakers.

Early OIA police forces were semimilitarized in structure but controlled by the local civilian OIA agent. Over the years, the OIA police program grew and provided law enforcement services for an increasing number of tribes. By 1883 the OIA was employing a thousand “privates” and a hundred “officers,” the largest contingent for OIA law enforcement up to that time (and a number never exceeded thereafter).

After the OIA law enforcement high-water mark of 1883 and enactment of the Major Crimes Act in 1885, law enforcement in Indian Country was so federalized that on many reservations the traditional tribal forms of law enforcement were weakened or disappeared entirely. Traditional methods of adjudication were often abandoned in favor of the federal BIA Courts of Indian Offenses for misdemeanors and federal district courts for felonies. This state of affairs continued until the 1960s.

In 1964 the BIA experimented with a plan to contract with the Oglala Sioux Tribe in South Dakota to allow the tribe to run its own criminal justice program. By 1974 thirty tribes had contracted to provide law enforcement services formerly conducted by the BIA. In 1975 Congress passed the Indian Self-Determination and Education Assistance Act, which formalized the contracting procedure. As more and more tribes saw the benefit of utilizing federal funding to run their own law enforcement programs, the “638 contracts” became a common means of providing federal funding to tribes. True tribal police forces began making a comeback on reservations across the country.

Over time, it became apparent that control over federal law enforcement officials by local BIA superintendents was not consistent with the development of modern professional law enforcement entities. In 1990 Congress passed the

Indian Law Enforcement Reform Act (ILERA). One of the goals of ILERA was to remove control of BIA law enforcement programs from the local BIA superintendent and to create a national police force. This new national entity became known as the Office of Law Enforcement Services. In 2005 the BIA further reformed the program and created five divisions, which reported to a central deputy director. The five divisions of the newly renamed Office of Justice Services were the Division of Law Enforcement (police and criminal investigations), Indian Police Academy, Division of Tribal Justice Support (judicial services), Division of Corrections, and Professional Standards Division (internal affairs and inspections).

Tribal police departments are now the predominant means of providing for public safety on most reservations outside of Alaska and California. The quality and size of today’s tribal law enforcement agencies vary greatly. The largest tribal police department is operated by the Navajo Nation, which covers parts of Arizona, New Mexico, and Utah. The nation has more than three hundred officers and operates its own police academy and internal affairs unit. Much smaller tribes may have ten, five, or even fewer sworn officers. Some tribal police departments may be well staffed, with state-of-the-art equipment, while other tribes struggle to provide even minimal levels of service to their communities. By 2000, 2,303 full-time sworn officers were serving in 171 tribal police departments. The BIA also continued to operate an additional thirty-seven police departments for tribes that had not exercised the option to run their own. Violations of tribal law are typically prosecuted by a tribal prosecutor’s office, and such offenses are usually heard in tribal court.

As in policing, the agencies that provide criminal investigative services vary from reservation to reservation. Many tribes have contracted the criminal investigative function from the BIA. The Federal Bureau of Investigation often takes the lead in investigating felony violations of the Major Crimes Act. Other federal law enforcement agencies that, depending on the circumstances, may have a role in Indian Country law enforcement include the Drug Enforcement Administration, the Bureau of Alcohol, Tobacco, Firearms and Explosives (firearms violations and arson), Customs and Border Protection, Immigration and Customs Enforcement, and the Interior Department’s Office of the Inspector General (federal program fraud). Federal offenses are prosecuted by the United States Attorneys Office in federal district court. Most United States attorneys with Indian

Country responsibilities have an assigned tribal liaison who works with tribal governments to ensure that each tribe's federal prosecutorial needs are being addressed.

Law enforcement in Indian Country received national attention in 2005, when on March 21 an emotionally disturbed teenager murdered his grandfather, a tribal police officer, and one other person on the Red Lake Chippewa reservation in Minnesota. The teenager then stole his grandfather's tribal police car and drove to the local high school, where he murdered an unarmed security guard, a teacher, and five students. As the shootings continued, Red Lake Chippewa tribal law enforcement officers arrived and exchanged fire with the gunman. The gunman was wounded and then committed suicide. Although nine innocent lives were lost, the toll probably would have been much higher if not for the heroic efforts of the Red Lake law enforcement officers. The response to the Red Lake school shootings brought national attention to the contributions that tribal law enforcement agencies bring to Indian Country and to the United States as a whole.

Current Law Enforcement Issues

The vast majority of Indian Country crime is a product of substance abuse. Historically, alcohol has been a cause or contributing factor to criminal activity on most reservations across the United States. In the late 1990s, methamphetamine began to appear in more and more tribal communities. Although the extent of methamphetamine use greatly trails that of alcohol, the criminal behavior spawned by it has had a disproportionately negative impact on individuals, families, and communities, just as in many rural non-Indian communities. In 2008 the White House Office of National Drug Control Policy unveiled an anti-methamphetamine advertising campaign designed to encourage tribal pride and to discourage experimentation and use of the drug by Native youth. An emerging threat now shadowing some tribal communities is prescription drug abuse.

Nationally, substance abuse is closely linked with domestic violence, and Indian Country is no exception. This problem has received special attention. Under the Violence Against Women Act of 1994, tribal court protective orders are now valid nationwide (not just on the reservation where originally issued). In 2007 Congress enacted a domestic violence habitual offender provision that makes a third domestic violence offense a federal felony if committed in Indian Country.

Although tribal police are theoretically limited to exercising criminal jurisdiction over Indian suspects who commit

misdemeanor crimes within Indian Country, tribal police are usually the first responders to all reservation crimes, including felonies committed by both Indians and non-Indians. Because of the jurisdictional complexities present in Indian Country, federal and state law enforcement authority is limited. One common solution has been to cross-deputize law enforcement officers from the other jurisdictions. The BIA cross-deputation policy published in 2004 sets forth standards that tribal and state law enforcement agencies must follow if they want their officers to receive federal law enforcement commissions. State and county law enforcement agencies can commission tribal police officers as well, and state and county officers can be commissioned to enforce tribal law. Fully commissioned officers can enforce federal, state, and tribal laws. Although cross-deputation does not solve the jurisdictional maze with which prosecutors must deal, it does go a long way toward giving police officers and criminal investigators the freedom and authority they need to patrol effectively, investigate crimes, and apprehend suspects.

In 2004 the Department of the Interior's Office of the Inspector General issued a report that was highly critical of detention facilities in Indian Country. The report noted shortages of jail space, overcrowding, unsafe facilities, and poor management in both BIA- and tribe-run detention facilities. The BIA's Office of Justice Services responded by addressing the recommendations made by the inspector general. After the report was released, numerous detention facilities were closed, others underwent renovation or managerial reform, and construction was completed on some of the new state-of-the-art detention facilities. But even with all of the reform efforts, most tribes still do not have their own detention facilities, and many tribal prisoners are being held in county or city jails under contract with either the tribe or the BIA. The authorities are now considering whether the current tribal court sentencing practices should be altered to include more probationary services, house arrest, substance abuse treatment, or other alternatives to confinement.

The Adam Walsh Child Protection and Safety Act of 2006 allowed tribal governments to decide whether to establish and maintain registries of convicted sex offenders who reside, go to school, or are employed within their jurisdictions. Tribal sex offender registries must meet the same standards as state registries. The vast majority of eligible tribes have opted to run their own sex offender registries.

After the al-Qaida attacks of September 11, 2001, on the United States, the nation began to identify and close gaps in

law enforcement and *national security*. Some reservations lie directly on international borders. For example, the border with Mexico runs alongside the Tohono O'odham Nation lands in Arizona for some seventy-five miles, and tribal members live on both sides. To the north, the Blackfeet tribe in Montana and the St. Regis Mohawk tribe in New York State live on the border with Canada. Border tribes have indicated that they want to do their part to protect the international borders, but they wish to do so in a manner that does not infringe on their sovereignty or the ability of their members to exercise indigenous rights. In 2008 the Department of Homeland Security (DHS) formally announced that as part of its Western Hemisphere Travel Initiative, tribal governments would be authorized to issue tribal identification cards (that must meet standards set by DHS) to be used for border-crossing purposes. Information sharing among tribal, federal, and state law enforcement agencies is also an emerging issue. In 2007 the White House issued the National Strategy for Information Sharing, which notes that tribal governments are important and necessary partners in the fight against terrorism.

Note: The contents of this article are the author's and do not necessarily reflect the views or positions of the Department of Justice.

See also *Bill of Rights*; *Bureau of Indian Affairs*; *Courts of Indian Offenses*; *Ex Parte Crow Dog* (1883); *Indian Civil Rights Act* (1968); *Indian Country*; *Indian Police Forces*; *Indian Self-Determination and Education Assistance Act* (1975); *Major Crimes Act of 1885*; *Oliphant v. Suquamish Indian Tribe* (1978); *Public Law 280*; *638 Contracts*; *Trade and Intercourse Acts*; *Worcester v. Georgia* (1832).

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BIBLIOGRAPHY

- Barker, Michael L. *Policing in Indian Country*. Albany: Harrow and Heston, 1998.
- Gould, Larry, and Jeffrey Ian Ross, eds. *Native Americans and the Criminal Justice System*. Boulder: Paradigm Publishers, 2006.
- Harring, Sidney L. *Crow Dog's Case: American Indian Sovereignty, Tribal Law, and United States Law in the Nineteenth Century*. New York: Cambridge University Press, 1994.
- International Association of Chiefs of Police. "Improving Safety in Indian Country: Recommendations from the IACP 2001 Summit." 2001.
- National Native American Law Enforcement Association. "Indian Country Border Security and Tribal Interoperability Pilot Program: The Importance of Tribes at the Frontlines of Border and Homeland Security." 2006.

Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005.

Pevar, Stephen L. *The Rights of Indians and Tribes: The Authoritative ACLU Guide to Indian and Tribal Rights*. 3rd ed. Carbondale and Edwardsville: Southern Illinois University Press, 2002.

U.S. Department of Justice, Bureau of Justice Statistics. "American Indians and Crime: A BJS Statistical Profile 1992–2002." 2004.

———. "Census of Tribal Justice Agencies in Indian Country, 2002." 2005.

———. "Jails in Indian Country Report, 2004." 2006.

———. "Tribal Law Enforcement, 2000." 2003.

U.S. Department of the Interior, Bureau of Indian Affairs. "National Methamphetamine Initiative Study: The Status of the Methamphetamine Threat and Impact on Indian Lands." 2006.

U.S. Department of the Interior, Office of the Inspector General. "Neither Safe nor Secure: An Assessment of Indian Detention Facilities." 2004.

Lawyer (Hol-lol-sote-tote)

Hol-lol-sote-tote (c. 1796–1876) was known by non-Indians as "Lawyer," reportedly because of his eloquence and intelligence. He was chief of an Upper Clearwater band of the Nimi'ipuu (Nez Perce) and a contemporary of Old Chief Joseph, whose band of the Lower Nez Percés resided in Oregon's Wallowa Valley.

In June 1855 Lawyer participated in treaty negotiations between the Nez Percés and Governor Isaac I. Stevens and Joel Palmer, the superintendents of Indian affairs for Washington and Oregon territories. Each village had a chief, but, although Lawyer represented only the Upper Nez Percés, Stevens designated him the head chief of all Nez Percés and treated him as an ally. Reputedly, Lawyer exposed a plot that was underway to murder the treaty commissioners. He was the first to sign the 1855 treaty, which established the original boundaries of the Nez Perce reservation, an area that encompassed seventeen million acres.

The discovery of gold and the availability of land soon attracted miners and settlers to the region, and the federal government took steps to redefine the reservation's borders. Lawyer tried but failed to prevent a land reduction in 1863, and the government's decision was codified in a document that came to be known as the "Steal" or "Thief" treaty after it diminished Nimi'ipuu holdings by 95 percent. The dissension surrounding the negotiation also divided the tribe into two factions: the treaty Nez Percés, who accepted the terms offered, and the nontreaty Nez Percés, who did not. The latter group included Looking Glass and Young Chief Joseph, both of whom later fought unsuccessfully to retain their traditional homelands.

Lawyer died on January 3, 1876, a year and a half before the Nez Perce War (1877). He remains a controversial figure in the history of American Indian accommodation and resistance.

See also *Missions and Missionaries*; Palmer, Joel; Stevens, Isaac; *Whitman Massacre* (1847).

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BIBLIOGRAPHY

- Drury, Clifford M. *Chief Lawyer of the Nez Percé Indians, 1796–1876*. Glendale, Calif.: Arthur H. Clark Company, 1979.
- Howard, Helen Addison. *Saga of Chief Joseph*. Caldwell, Idaho: Caxton Printers, Ltd., 1965.
- Joseph, Alvin M., Jr. *The Nez Percé Indians and the Opening of the Northwest*. New Haven, Conn.: Yale University Press, 1965.

League of the Iroquois

The League of the Iroquois was a confederation of five Iroquois nations: Seneca, Cayuga, Onondaga, Oneida, and Mohawk. In 1722 the Tuscaroras also joined the league. Collectively, these peoples referred to themselves as the Haudenosaunees (People of the Longhouse). The league was bound by a common commitment to the “Great Peace” that provided for local autonomy but centralized decision making on matters that affected the entire league. Although members often cooperated to achieve common goals, they were also free to pursue their own interests and agendas.

The metaphor of the longhouse—a traditional Iroquois dwelling—describes the intimate relationship among the five tribes. Just as several families dwelled in unity and peace within the same longhouse, so the League of the Iroquois unified the tribes in one dwelling. As part of this symbolism, the Senecas, the westernmost Iroquois tribe, were known as the Keepers of the Western Door, while the Mohawks, the easternmost Iroquois tribe, were known as the Keepers of the Eastern Door. To complete the imagery, the Onondagas, who dwelled in the middle of Iroquois territory, maintained the sacred hearth of the Great League, much as a central hearth occupied the middle of a longhouse.

Scholars tend to distinguish between the Iroquois League and the Iroquois Confederacy. The confederacy was the political organization created to deal with the growing challenges and threats of the European presence. The leadership of these two spheres of Iroquois society was somewhat distinct, but it also overlapped to a great extent, making it difficult to fully separate the league from the confederacy. In addition, leaders of the confederacy considered themselves to

be emissaries for the league. As ethnographer William N. Fenton explains, “The League was a ceremonial entity; the Confederacy its operating agent” (*The Great Law and the Longhouse*, 1998). Thus the distinction between league and confederacy can be very difficult to maintain, but that distinction is not emphasized here. Rather, the emphasis is on Iroquois interactions with outsiders in more general terms.

The Beginnings of the League

The league was founded between 1400 and 1600. Iroquois oral tradition says that before creation of the league the five Iroquois nations were engaged in constant warfare with one another. In fact, warfare played an important role in Iroquois society. Taking captives in battle was a means of increasing one’s spiritual power. Even more important were the mourning wars (so-called because under Iroquois tradition mourning ended only after a death was avenged), in which Iroquois communities raided neighboring tribes to replenish their own populations. Captives taken in mourning wars could be ritually adopted to replace dead community members, or they could be ritually killed to assuage the grief of the family.

During this time of blood feud, an Onondaga man named Hiawatha (Ayenwatha) fled in grief to the nearby woods after losing his children to the cycle of violence and reprisal. There, he met Deganawidah, who was either a supernatural being or a real person (accounts vary). From Deganawidah, Hiawatha received the Great Peace, a series of rituals and agreements that bound the Iroquois tribes together, provided the Iroquois with a means of ending hostilities among the Five Nations, and gave them a commonality of purpose, molding them into the Great League. The Condolence Ceremonies that were the foundation of the Great Peace served as an alternative means of mourning and grieving the loss of loved ones, as well as replacing the spiritual power lost to the community by their deaths.

A Grand Council, composed of fifty tribal leaders known as sachems, was responsible for maintaining the Great Peace. In the metaphor of the Great Longhouse, the sachems served as the poles that held up the entire structure. The fifty sachems represented the major clans of the various tribes. Sachems voted together as tribes rather than as individuals. Even though some tribes had more representation than others, they had no advantage because all decisions by the Grand Council had to be unanimous. The actual function of the sachems was largely ceremonial. They were responsible for exchanging the gifts that maintained harmony between

the Iroquois tribes, as well as conducting the Condolence Ceremonies. Important female members of the clans were responsible for selecting and replacing the sachems. In addition, they could call for the removal of sachems if they failed to conduct themselves in a worthy manner.

The Great Peace did not remove warfare from Iroquois society, but merely redirected it toward outsiders. Indeed, the Great Peace was by its nature expansive. Roots from the “Tree of the Great Peace” were said to spread out in all directions. The Iroquois were to serve as peace brokers, inviting others to join in the Great Peace through what amounted to submission to Iroquois hegemony. If others were unwilling to join, then they must be brought into the Great Peace by force; a refusal to join was paramount to a declaration of war upon the Five Nations. The demands of the Great Peace compelled the League of the Iroquois to engage in nearly continual warfare with its neighbors, and yet it is difficult to separate indigenous reasons for Iroquois expansion from the circumstances created by the arrival of Europeans.

Their arrival presented the league with new opportunities and challenges. European technology, particularly metal weaponry and firearms, dramatically changed the landscape of power in the region, and the Iroquois fought with neighboring tribes in an attempt to control the flow of European goods and weapons. These attempts ultimately brought the league into conflict with the colony of New France, which had chosen many of the league’s traditional enemies as trading partners. The arming of their enemies drove the Iroquois into further dependence on trade with various European colonies.

The Iroquois fared poorly in warfare against the French during the 1650s and 1660s. As part of a peace settlement, the Iroquois allowed Jesuit priests into their communities. The Jesuits encouraged their converts to separate from their communities and refuse to participate in the rituals and ceremonies that served as the foundation of the league. Conversions cut across the kinship and family ties that bound Iroquois society together. The league was built upon compromise, but Jesuit converts refused to concede to the majority, and strong Francophile (pro-French) factions formed within each of the Iroquois nations.

Beginning in the 1670s, the Iroquois became more successful at its war making. Meanwhile, New France appeared to be breaking many of its promises, which led to the waning of the French influence. By 1687 the last two Jesuit missionaries had left Iroquoia. The rise of the Anglophiles—or

pro-English factions—accompanied the fall of the Francophiles, because many Iroquois leaders began to view an alliance with the English as a more palatable alternative. The Anglophile factions largely consisted of traditionalist forces, bolstered by the spiritual power gained from recent wartime victories. The Five Nations, along with the other tribes for which they claimed to speak, entered into an agreement with the English colonies known as the Covenant Chain.

English promises proved no more reliable than French ones, however, and the league experienced near-paralysis from the constant bickering between Francophile and Anglophile factions. Convinced that the Iroquois would not benefit from continuing to choose between the two empires, some Iroquois leaders pursued a strategy of neutrality. In 1701 the Iroquois leaders simultaneously negotiated two treaties, one with the French and one with the English. Neutralists understood that economic dependence upon the Europeans was an unavoidable reality, but they hoped to forestall cultural and political dependence.

The rise of the neutralists marked a renaissance of Iroquois power in the region. They redirected the expansion of the Great Peace toward the Indian frontiers of Virginia and the Carolinas to the south of Iroquoia. The Iroquois population greatly increased from these raids, as well as from the peaceful absorption of many refugees such as the Tuscaroras.

The League during the American Revolution

Iroquois neutrality worked fairly well until just before the Seven Years’ War, during which the Iroquois eventually sided with the British against the French. With the expulsion of the French from Canada, the Iroquois strategy of maintaining neutrality through a balance of power no longer worked.

During the American Revolution, the Iroquois again tried to maintain a policy of neutrality, but neither the British nor the Americans would accept it. Both sides understood the importance of an Iroquois alliance, and both sides campaigned feverishly among the tribes for support. During the winter of 1777, members of the six nations of the league gathered at Onondaga to discuss which side to support in the Revolutionary War. Unable to reach a consensus, they extinguished the council fire that had served as a symbol of the league, and each nation agreed to chart its own course. The Tuscaroras and the Oneidas joined the Americans, while the Senecas, Cayugas, Onondagas, and Mohawks joined the British.

After the war, the council fire was rekindled in both New York and Canada, creating two leagues. Though the leagues still exist, the various tribes largely pursue their own courses. Outside factors, such as the influence of Christianity and the change from hereditary to elected sachems, have changed the form and function of the League of the Iroquois. Various traditions of the league continue to hold significance for some Iroquois communities. Some scholars argue that the constitution of the league, in particular its representative form of government, influenced the drafting of the U.S. Constitution. This assertion has been hotly debated, with no clear consensus.

See also *American Revolutionary War (1775–1783)*; *Constitution, Iroquois Influences on the U.S.*; *Covenant Chain*; *French and Indian War (1754–1763)*.

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BIBLIOGRAPHY

- Barr, Daniel. *Unconquered: The Iroquois League at War in Colonial America*. Westport, Conn.: Praeger, 2006.
- Fenton, William N. *The Great Law and the Longhouse: A Political History of the Iroquois Confederacy*. Norman: University of Oklahoma Press, 1998.
- Goldstein, Robert A. *French–Iroquois Diplomatic and Military Relations 1609–1701*. The Hague: Mouton, 1969.
- Graymont, Barbara. *The Iroquois in the American Revolution*. Syracuse, N.Y.: Syracuse University Press, 1972.
- Jennings, Francis. *The Ambiguous Iroquois Empire: The Covenant Chain Confederation of Indian Tribes with English Colonies from Its Beginnings to the Lancaster Treaty of 1744*. New York: Norton, 1984.
- Moore, James T. *Indian and Jesuit: A Seventeenth Century Encounter*. Chicago: Loyola University Press, 1982.
- Morgan, Lewis Henry. *League of the Iroquois*. Secaucus, N.J.: Carol Publishing Group, 1996 (1851).
- Parker, A. C. *The Constitution of the Five Nations or the Iroquois Book of the Great Law*. Albany: University of the State of New York, 1916.
- Richter, Daniel. *The Ordeal of the Longhouse: The Peoples of the Iroquois League in the Era of European Colonization*. Chapel Hill: University of North Carolina Press, 1992.
- Snow, Daniel. *The Iroquois*. Oxford, U.K., and Cambridge, Mass.: Blackwell, 1994.
- Wallace, Anthony F. C. *The Death and Rebirth of the Seneca*. New York: Vintage Books, 1969.

LeFlore, Greenwood

Greenwood LeFlore (1800–1865), a principal chief of the Choctaw Nation, was instrumental in removing the Choctaws from their homeland in Mississippi to the Indian Territory in what is now Oklahoma.

LeFlore was the son of Canadian trader Louis Le Fleur and Rebecca Cravat, the daughter of a prominent Choctaw

chief. After acquiring an education in Nashville, LeFlore returned to Mississippi in 1817 and began using his skills and connections to achieve power and status in the western towns of the Choctaw Nation. By the early 1820s, he was a wealthy, slave-holding cotton planter. In 1822 LeFlore succeeded in removing his uncle, Robert Cole, from office and taking his place as chief of the northwestern district of the Choctaw Nation. LeFlore supported Choctaw participation in the federal civilization program and encouraged the Choctaws to accept Christianity and other Anglo-American cultural practices. For example, he helped to produce a written code of laws for the Choctaws. At the same time, he defended the sovereignty of the Choctaw Nation.

The Indian Removal Act of 1830 provided President Andrew Jackson with the authority to negotiate treaties in which a tribe would surrender all of its land in the east for a new parcel in the Indian Territory. Soon thereafter, LeFlore began arguing that removal was inevitable, and he counseled the Choctaws to accept removal, because, he believed, armed resistance was futile. The Choctaws decided to centralize their political decision making, and on March 16, 1830, they elected LeFlore chief of the entire Choctaw Nation. In September, the national council decided to accept a removal treaty and move west.

LeFlore oversaw the final treaty negotiations at Dancing Rabbit Creek, which transferred about eleven million acres of Choctaw land to the United States. The United States then gave LeFlore a large reserve of land in Mississippi, presumably in exchange for his role in leading the Choctaws to the removal treaty. As a result, LeFlore did not move with the Choctaws but remained in Mississippi, where he later served three terms in the state legislature.

LeFlore opposed Mississippi's secession from the Union in 1861. He died on August 21, 1865.

See also *Allotment in Severalty*; *Indian Removal Act (1830)*; *Indian Territory*; *Jackson, Andrew*; *Oklahoma*.

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BIBLIOGRAPHY

- Carson, James Taylor. *Searching for the Bright Path: The Mississippi Choctaws from Prehistory to Removal*. Lincoln: University of Nebraska Press, 2003.
- Indian Removal Act of 1830*, 21st Cong., 1st sess (May 26, 1830).
- O'Brien, Greg, ed. *Pre-Removal Choctaw History: Exploring New Paths*. Norman: University of Oklahoma Press, 2008.

Leschi

Leschi (1808–1858) came from a prominent Nisqually/Klickitat-Yakama family living in the South Puget Sound region of the present-day western portion of Washington State. Leschi rose to prominence as a skilled hunter, charismatic speaker, and intercultural broker. Initially, he accommodated and aided European American settlers in the region. By 1853 enough immigrants had been lured by the Donation Land Act's promise of free homesteads to establish Washington Territory. To provide enough land for European American settlement, Governor Isaac Stevens imposed a series of land cession treaties on the local Natives that confined tribes to reservations. Although Leschi reserved his people's right to fish, hunt, and gather, he protested the relocation site of the Nisqually reservation as stipulated by the Medicine Creek Treaty of 1854. It has been alleged that he refused to sign the document, but his mark appeared on the final version.

In 1855 many Native communities in the region balked at the terms and conditions of the eleven treaties Stevens forced upon them. Culture clashes generated violent misunderstandings that resulted in the Puget Sound and Yakama "treaty wars" of 1855–1858. Although Leschi attempted to avert bloodshed, he believed that the Indians had been done a disservice by the government, and he objected to the relocation of the Nisqually away from their salmon and prairie watershed.

During this confusing series of fights and ambushes, Leschi was charged with the murder of a militiaman, which he denied. Although exonerated during the first trial, a second trial resulted in his conviction and execution by hanging. However, many local European American settlers and officials agreed with Leschi's assessment that "the killing of armed men in war time was not murder; if it was, the soldiers who killed Indians were guilty of murder too" (Ezra Meeker, *The Tragedy of Leschi*, 1980). Through the persistent efforts of his descendants, Chief Leschi was finally cleared of any wrongdoing in 2004. But most significantly, Leschi's resistance and sacrifice resulted in a revised treaty creating a sustainable Nisqually reservation within their homeland.

See also *Donation Land Law; Stevens, Isaac; Yakama War.*

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BIBLIOGRAPHY

Carpenter, Cecelia Svinth. *The Nisqually, My People*. Tacoma, Wash: Tahoma Research, 2002.

"Leschi: Last Chief of the Nisquallys, 1808–1858." *Leschi: Justice in Our Time*, <http://stories.washingtonhistory.org/leschi/leschi.htm>.

Meeker, Ezra. *The Tragedy of Leschi*. Everett, Wash.: The Printers, 1980.

Wilkinson, Charles. *Messages from Frank's Landing: A Story of Salmon, Treaties, and the Indian Way*. Seattle: University of Washington Press, 2000.

Leupp, Francis E.

Francis Ellington Leupp (1849–1918), one of the few federal officials of his era to recognize the value of Native American culture, served as commissioner of Indian affairs from 1905 to 1909.

Leupp, who was born in New York City, graduated from Williams College and Columbia University Law School. He developed his interest in Indian affairs while working as a journalist. He served as assistant editor of the *New York Evening Post* (1874–1878), owner and editor of the *Syracuse Herald* (1878–1885), and then head of the Washington, D.C., bureau of the *New York Evening Post* (1885–1904). He also edited *Good Government*, the journal of the National Civil Service Reform League.

A highly independent man who could be difficult, Leupp served as the Washington agent of the Indian Rights Association from 1895 to 1898. Employment by the association proved to be excellent training for a future commissioner of Indian affairs. Leupp visited reservations and was introduced to the wide variety of issues facing Native Americans. He also became acquainted with many people in the Indian service and sat on the Board of Indian Commissioners in 1896–1897.

In 1905 President Theodore Roosevelt appointed his friend Leupp as commissioner of Indian affairs. Like Roosevelt, Leupp had an interest in preserving elements of Indian culture. He appointed a supervisor of Native American music and supported a plan to teach Pueblo potters to glaze their products to improve sales in the non-Indian market. He also sought, without success, to halt the trade in Indian artifacts.

On the education front, Leupp lamented the zeal of many teachers to crush anything Indian in the young. He warned that young Indians could not be taught self-respect if they were taught simultaneously to be ashamed of their ancestry. In an effort to make education more practical, he arranged to have printing for the Indian service, normally done at the Government Printing Office, handled by print shops at the larger Indian schools.

However, Leupp's respect for Indian culture did not deter him from promoting programs to "improve" Native Americans. Among other things, he backed an Indian employment office to find work for Indians outside the reservation. He also argued that Indians needed to be turned into self-reliant, independent workers on individual allotments of land. Accordingly, he supported the General Allotment Act of 1887, or Dawes Act, which authorized the executive branch to survey tribal lands and divide them into plots for individual Native American families. Under the Dawes Act, Native Americans who accepted allotments became citizens of the United States. Leupp, however, believed that citizenship was a disadvantage for many Indians; they were not fit for its duties or able to take advantage of its benefits. To protect Indians, he supported the Burke Act of 1906, which delayed citizenship until an owner had obtained free title to his allotment or had been deemed competent to manage his own affairs. Leupp contended that as long the United States held allotments of land in trust, it could prevent the transport of liquor into Indian lands, so he used the Burke Act to suppress the liquor traffic.

The commissioner position proved a difficult one for Leupp; he even became temporarily impaired by nervous strain at one point. Leupp was particularly critical of the willingness of the Indian Rights Association to make charges based on reports from its missionary contacts. He criticized the willingness of philanthropists to accept the word of any missionary, no matter how obscure, over a man who had spent half his life studying Indian issues.

When Roosevelt left office, he endorsed Leupp's retention as commissioner. President William Howard Taft kept Leupp in his position for only the first few months of his administration. In June 1909, Leupp stepped down, to be replaced by Robert G. Valentine.

After leaving the Office of Indian Affairs, Leupp continued speaking out on Indian matters. His numerous writings included *The Indian and His Problem* (1910) and *In Red Man's Land: A Study of the American Indian* (1914).

See also *Board of Indian Commissioners; Burke Act of 1906; General Allotment Act (Dawes Act) of 1887; Indian Rights Association; Roosevelt, Theodore.*

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BIBLIOGRAPHY

- Hagan, William T. *Theodore Roosevelt and Six Friends of the Indian*. Norman: University of Oklahoma Press, 1997.
 Leupp, Francis E. *In Red Man's Land: A Study of the American Indian*. Grand Rapids, Mich.: Fleming H. Revell, 1914.

———. *The Indian and His Problem*. New York: Charles Scribner's Sons, 1910.

Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.

Lewis and Clark Expedition

At the direction of President Thomas Jefferson, Meriwether Lewis and William Clark led a political, commercial, and military expedition known as the Corps of Discovery across North America in 1804–1806. Jefferson had previously attempted to send three exploratory trips across the continent, and this expedition was the culmination of his long-held dream. He had his sights set on making the Pacific Northwest part of the United States, and he wanted to expand American commerce across the continent. The Lewis and Clark expedition carried out this task and opened the way for American utilization and settlement of the Louisiana Territory and beyond.

Jefferson asked Lewis, his private secretary, to command the expedition. Lewis had served in the Virginia militia and had fought in "Mad" Anthony Wayne's campaigns against Little Turtle's confederacy in the Old Northwest. He met Clark while serving in the army. Lewis requested that Clark, likewise a Virginian, soldier, and a veteran of the Little Turtle's War (1785–1795), assist him in leading the expedition.

Jefferson had four objectives for the expedition. First, in January 1803 he explained to Congress that the primary goal was to try to find a northwest passage across the continent to increase the American fur trade. Jefferson repeated this objective in his June 1803 letter to Lewis: "The object of your mission is to explore the Missouri river . . . and [its] communication with the waters of the Pacific ocean."

Second, Jefferson explained to Congress that the expedition was designed to extend the commerce of the United States to the Indians and their governments in the Louisiana Territory. Jefferson then directed Lewis to negotiate trade relations with Indians and ordered him to find out where the United States should build trading posts, what kinds of goods Indians wanted, and what they would pay in trade.

Jefferson's third objective concerned scientific issues. Jefferson and various scientists helped Lewis develop a questionnaire to be used with each Indian nation to ask about tribal life, cultures, economics, and military affairs. Jefferson was also interested in Indian languages, so he ordered Lewis to compile vocabularies, lists of common words in the tribal language, from each tribe.

This engraving by Patrick Gass, a member of the Lewis and Clark expedition, depicts Meriwether Lewis, in the cocked hat, and William Clark meeting with a group of Indians. The objectives of the expedition were to make contact and gather information about Indian tribes and to curry favor with them.



The Lewis and Clark expedition and these first three objectives for it were planned long before the United States bought France's rights in the Louisiana Territory. Jefferson's fourth objective arose after the two countries concluded the Louisiana Treaty. The Louisiana Purchase, however, almost happened by accident. American diplomats Robert Livingston and James Monroe were to buy only the city of New Orleans from France, at a cost of no more than \$2 million. France unexpectedly offered the entire area for \$15 million, and Monroe and Livingston seized the opportunity. Now Jefferson had an additional objective for Lewis and Clark—to apply the United States' new sovereign and commercial rights over the Indians in the territory and to propose trade relations with them.

These aims and Lewis's advance planning highlight how important Indian legal, commercial, and political issues were to the expedition. Jefferson and Lewis also knew the expedition would need (and did receive) the assistance of tribes to succeed and even to survive. For example, Sacagawea, wife of expedition interpreter Toussaint Charbonneau, played an important role in the mission. She served as an interpreter with the Native tribes the expedition encountered, and her presence, along with that of her baby, demonstrated to those tribes that the expedition came in peace and was not a war party. She also helped gather foods, guided the expedition in

some areas, and helped save equipment when a canoe was swamped. Other Indians provided crucial aid to the Corps of Discovery. Sacagawea's brother Cameahwait, the chief of the Shoshones, perhaps provided assistance that helped the expedition reach the Pacific Ocean. Cameahwait's tribe traded horses to Lewis and Clark that helped them cross the Bitterroot Mountains and provided them with a guide, "Old Toby," who led them across that barrier. Other Indians, such as Twisted Hair of the Nez Percés, provided invaluable advice and introductions to other Indians. Twisted Hair even kept the expedition's horse herd during the time the explorers canoed the Clearwater, Snake, and Columbia rivers to the Pacific and back. At the Pacific Ocean, the Chinook chief Concomly befriended the explorers and helped the expedition in numerous ways.

Jefferson and Lewis planned to deal with the Indian nations in a diplomatic and friendly manner, and thus Lewis prepared at least twenty-one specific gift bundles for the tribes he expected to meet. The time, money, and thought Jefferson, Lewis, and Clark put into preparing to meet and curry favor with the Indian nations demonstrates the absolute importance of the tribes to the expedition's meeting its commercial, diplomatic, and scientific goals. Lewis and Clark conducted more than fifty official diplomatic conferences with Indian nations. They delivered a message to

Indians that the United States was now their ultimate sovereign and that Thomas Jefferson was their new great father. Lewis informed them that their old friends the French and Spanish were gone. In essence, Lewis was telling Indians that they were American subjects and that Jefferson was now the only person they could look to for protection. Lewis said Jefferson had sent the expedition to make peace between the United States and the tribes, to find out what goods the tribes wanted, and to make arrangements to deliver them. Lewis and Clark also distributed American flags, medals, and army uniforms to demonstrate that Jefferson sincerely wanted to establish peaceful relations.

It is difficult to say what the tribal nations thought of the message of Lewis and Clark. Historians have suggested that the pronouncements of U.S. sovereignty were ignored. It is clear that most of the tribes Lewis and Clark encountered were already accustomed to dealing diplomatically and commercially with European countries. To many of the Native people the expedition encountered, Lewis and Clark were just the representatives of a new trading partner and a new political entity trying to exercise influence in their region. Most of the tribes reserved making any commitments to Lewis and Clark and the United States.

Once Lewis and Clark crossed the Rocky Mountains, they knew they were outside of American territory. In fact, the expedition later became an important part of the American claim to the Pacific Northwest under the international law called the Doctrine of Discovery. Lewis and Clark no doubt realized that they were engaged in the legal process of discovery, because once they crossed the Rockies they often marked and branded the territory with their names. The most dramatic piece of Doctrine of Discovery evidence and an American claim to the Pacific Northwest, however, dates from March 18, 1806, as the expedition prepared to leave Fort Clatsop at the Oregon coast. On that day Lewis and Clark recorded a list of the people who had accompanied them and made a rough map of their route. They then left this list in the fort and gave copies to various Indians with instructions to give the documents to any white men who arrived. The document was nothing less than legal evidence of the American claim to the Pacific Northwest. Lewis and Clark clearly explained their meaning in the document itself: "The object of this list is, that through the medium of some civilized person who may see the same, it may be made known to the informed world, that the party consisting of the persons whose names are hereunto annexed, and who were sent out by the government of the

U' States in May 1804 to explore the interior of the Continent of North America, did penetrate the same by way of the Missouri and Columbia Rivers, to the discharge of the latter into the Pacific Ocean."

Lewis and Clark influenced Indian policies and history in many ways. The expedition expanded U.S. territory, introduced U.S. political and commercial objectives to Indian nations in the Louisiana and Pacific Northwest territories, and applied the various aspects of the Doctrine of Discovery against these tribes and their lands.

See also *Clark, William; Discovery, Doctrine of; Jefferson, Thomas; Louisiana Purchase; Sovereignty; U.S. Indian Policy: Congress and the Executive, 1775–1803; U.S. Indian Policy: Congress and the Executive, 1803–1848.*

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BIBLIOGRAPHY

- Jackson, Donald, ed. *Letters of the Lewis and Clark Expedition with Related Documents, 1783–1854*. Champaign: University of Illinois Press, 1978.
- Miller, Robert J. *Native America, Discovered and Conquered: Thomas Jefferson, Lewis & Clark, and Manifest Destiny*. Westport, Conn.: Praeger Publishers, 2006.
- Moulton, Gary E. *The Definitive Journals of Lewis & Clark*. Lincoln: University of Nebraska Press, 1986.
- Richardson, James D., ed. *A Compilation of the Messages and Papers of the Presidents*. Washington, D.C.: Bureau of National Literature, 1913.
- Ronda, James P. *Lewis & Clark among the Indians*. Lincoln: University of Nebraska Press, 1984.

Lincoln, Abraham

Abraham Lincoln (1809–1865), the sixteenth president of the United States, was born in Hardin County, Kentucky, to a frontier family. He led the Union states during the Civil War (1861–1865) and was assassinated following the war's end. Before he became president, Lincoln was a lawyer, a member of the U.S. House of Representatives, and an unsuccessful candidate for the U.S. Senate. He issued the Emancipation Proclamation in 1863 and promoted the Thirteenth Amendment to the Constitution abolishing slavery. The amendment was ratified after his death.

Indian affairs were central to the politics of Abraham Lincoln's era, and he filled patronage jobs in the so-called Indian system like any other new president. For example, he appointed political ally William P. Dole as commissioner of Indian affairs. Dole's Office of Indian Affairs oversaw a system of institutionalized corruption that was a pathway to wealth and power. The system rested on treaties with Indian

tribes that were typically negotiated following warfare. In most of these treaties, a tribe would agree to cede land to the United States in return for a trust fund in Washington dedicated to meeting the needs of the Indians. However, that money normally was distributed not to the intended tribe, but to dozens of white superintendents, agents, traders, contractors, and claimants.

Abraham Lincoln's policies toward Indians were often contradictory. In the Indian Territory (present-day Oklahoma), the Five Tribes—the Cherokees, Creeks, Choctaws, Chickasaws and Seminoles—were courted by the Confederacy during the Civil War. The Cherokees, led by Chief John Ross, resisted these efforts and Ross personally visited Lincoln in Washington to plead the cause of his people. Lincoln initially abandoned the Indian Territory to the Confederacy but changed his mind when Kansans raised a furor over the flood of Indian refugees pouring into their state. In 1862 Lincoln authorized an expedition to return the Natives to Indian Territory and inducted three thousand Indians into the Union Army. The expedition, launched on June 28, 1862, collapsed due to a mutiny and returned to Kansas. Thereafter, conditions for the refugees only worsened. Finally, in 1864, with the Confederacy in retreat, Lincoln ordered the return of five thousand refugees to the Indian Territory.

In Minnesota the years of suffering inflicted by the Indian system exploded into war. On August 17, 1862, near Acton, Minnesota, starving Natives killed five white settlers for food. Fearing reprisals, the Sioux launched a preventive war. Governor Alexander Ramsey alleged the war was a Confederate conspiracy, and desperate for troops, temporarily refused to provide Lincoln with additional Minnesota soldiers to fight in the Union Army. Lincoln responded that Ramsey should attend to the problem and dispatched General John Pope, who had been defeated by the Confederates at Second Bull Run, to Minnesota to put down the Indians.

When the battle in Minnesota ended in October 1862, Pope presented Lincoln with an extraordinary legal and humanitarian dilemma: he was planning to execute 303 Sioux men. Lincoln, shocked at this prospect, ordered his lawyers to examine the trial transcripts. Despite great political pressure, Lincoln refused to sanction Pope's execution plan, although in December he did authorize the execution of thirty-nine of the prisoners (later reduced to thirty-eight), still the largest mass execution in American history. After Lincoln won reelection in 1864, Ramsey visited the presi-

dent and told him he could have won more votes in Minnesota if he had hung all of the Indians. Lincoln responded that the votes were not worth the Indians' lives.

Reformers, including some abolitionists, used the events in Minnesota to pressure Lincoln to reform the Indian system. Minnesota's Episcopal bishop Henry Whipple called the Indian system "a sink of iniquity" and pressed Lincoln to take politics out of the system. Whipple personally visited Lincoln, and his account of Indian suffering so impressed the president that Lincoln responded, "If we get through this war, and I live, *this Indian system shall be reformed*" (*Lights and Shadows of a Long Episcopate*, 1899).

After 1862 Lincoln focused his attention on winning the Civil War, and Indian policy was much less of a priority. Still, Indian commissioner Dole announced: "The plan of concentrating Indians and confining them to reservations may now be regarded as the fixed policy of the government." (*Annual Report of the Commissioner of Indian Affairs*, 1863). Interior Secretary John Usher further explained Lincoln's militaristic policy: "This Department will make provision for such Indians as will submit to its authority and locate upon the reservation. Those who resist should be pursued by the military, and punished" (*Annual Report of the Secretary of the Interior*, 1864). This was the uncompromising policy of a government at war.

An unfortunate result of this policy was General James Carleton's brutal military concentration of the Navajos in New Mexico in 1864. Also, in November of that year, Colonel John Chivington attacked a Cheyenne village in Colorado in what became known as the Sand Creek massacre, killing as many of 150 Indians, mostly women and children.

In early 1865 news of the Sand Creek slaughter shocked Congress into a debate over Indian policy. A joint congressional committee was established in July, following Lincoln's death. The committee produced a report in January 1867 that became the basis for the "Peace Policy" with the Indian tribes during the administration of Ulysses S. Grant.

Lincoln's promise to Bishop Whipple did not come to fruition due to his untimely death, and Native Americans lost the visionary and skilled political leadership that might have brought about genuine reform in the Indian system.

See also *Civil War (1861–1865)*; Carleton, James Henry; Dole, William P.; Grant, Ulysses S.; *Indian Peace Commission*; Ross, John; *Sand Creek Massacre*; Sibley, Henry Hastings; *United States–Dakota War of 1862*.

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BIBLIOGRAPHY

- Lincoln, Abraham. *The Collected Works of Abraham Lincoln*. 9 vols. Edited by Roy P. Basler. New Brunswick, N.J.: Rutgers University Press, 1953.
- Nichols, David A. *Lincoln and the Indians: Civil War Policy & Politics*. Urbana: University of Illinois Press, 2000.
- U.S. Department of the Interior. *Annual Report of the Secretary of the Interior*. Washington, D.C.: Government Printing Office, 1864.
- U.S. Department of the Interior. Office of Indian Affairs. *Annual Report of the Commissioner of Indian Affairs*. Washington, D.C.: Government Printing Office, 1863.
- Whipple, Henry Benjamin. *Lights and Shadows of a Long Episcopate: Being Reminiscences and Recollections of the Right Reverend Henry Benjamin Whipple, Bishop of Minnesota*. New York: Macmillan, 1899.

Little Bighorn (1876), Battle of

In what is probably the best known battle between American Indians and the U.S. military, one of the largest gathering of forces ever assembled by Native nations defeated the U.S. Seventh Cavalry in 1876. The battle took place in what is now southeastern Montana along the Little Bighorn River, known to the Lakotas as the “Greasy Grass.” Lt. Col. George Armstrong Custer and all 263 men with him were killed on the first day of the battle, June 25, 1876. Maj.

Marcus Reno and his troops fought the Indian forces that day and the next, sustaining heavy casualties. The Lakotas (Western Sioux), Cheyennes, and Arapahos lost about twenty men and a few women and children, including the family of Gall, a Hunkpapa Lakota leader.

The battle was part of a larger military campaign that eventually drove the last northern Great Plains Native nations onto reservations. It was also linked to presidential history, because Custer hoped to generate a military victory that would propel him into the Republican Party’s vice presidential nomination.

The conflict had its roots in violations of the 1868 Fort Laramie Treaty between the United States and the Lakota Nation. The treaty guaranteed the Lakotas a large reservation, the “Great Sioux Reserve,” with their sacred Black Hills at its center. But in 1874 Custer led a mission to the Hills that confirmed the presence of gold. This discovery sparked an invasion by thousands of whites and Lakota outrage at the violation of the treaty and their sacred Black Hills.

In the spring of 1876, with food running short, many Lakotas, Cheyennes, and Arapahos slipped away from the



Amos Bad Heart Buffalo, a nineteenth-century Native American artist, renders an illustration of U.S. Army soldiers being forced to retreat by the Indian warriors’ counterattack at the 1876 Battle of Little Bighorn.

reservations and joined non-reservation Indians camped on Rosebud Creek in what is now southeastern Montana. Among their leaders was Sitting Bull, who had a vision about dead soldiers falling into the camp. He and other Lakota leaders—including Crazy Horse, Gall, Spotted Eagle, Rain-in-the-Face, and Touch the Clouds—were joined by Cheyennes, led by Two Moon and Old Bear, and by Santee Dakotas (Eastern Sioux), led by Inkpaduta.

After President Ulysses S. Grant declared that the northern Great Plains tribes had to be subdued, Gen. Philip H. Sheridan assigned 2,500 soldiers to what was known as the Sioux Campaign of 1876. Gen. Alfred Terry was to confront the Indians from the east, Gen. George Crook from the south, and Col. John Gibbon from the west.

Forces led by Crazy Horse defeated Crook on June 17 at the Battle of the Rosebud Creek. Crook soon determined that the Indian force he had encountered was much larger than U.S. estimates of Indian strength. Composed of about twelve thousand Indians and three thousand fighting men, it was the largest Indian force ever assembled on the Great Plains.

Not knowing Crook's fate, Terry sent Custer toward the Little Bighorn, where the Indian camp had moved. Custer's Crow and Arikara scouts found the camp's trail, and Custer moved to engage the Indians. Hoping to surround them, as he had done successfully against Black Kettle's peaceful camp on the Washita River in 1868, he divided his forces into three groups.

Major Reno and 112 men were sent to attack from the south. There, they were promptly met by hundreds of Indians and routed. They retreated and dug in on the top of a ridge, where they were eventually joined by troops led by Capt. Frederick Benteen, the third part of Custer's command.

Custer and five troops of cavalymen attacked from the northeast. There, they were met by some thousand fighters led by Two Moon and reinforced by Rain-in-the-Face, Gall, and Crazy Horse, who rode from the fight with Reno to face Custer's troops. Within half an hour, Custer and all those with him had been killed. The Indians celebrated that night, half-heartedly re-engaged Reno's troops the next day, and then withdrew. General Terry and his troops were the first non-Indians to locate Custer's troops. They buried the dead and rescued Reno and his command.

Word of the deaths of Custer's command reached the United States on July 4, 1876, the centennial of the Declaration of Independence and a national holiday. The shock led to demands that the federal government end the Indian threat, and the rations of those Lakotas living on a

reservation were cut off until they agreed to sell the Black Hills—the “sell or starve” policy. Terry and his troops pursued the Indians through the winter. By May 1877, Sitting Bull had fled to Canada and Crazy Horse had turned himself in at Fort Robinson, Nebraska, where he was killed later that year.

The Battle of Little Bighorn became the subject of a great deal of myth and speculation, including fanciful art, novels, and cinematic accounts of “Custer's Last Stand.” These include a 1936 serial movie of that name, the 1941 movie *They Died With Their Boots On*, starring swashbuckler Errol Flynn, and the novel *Little Big Man*, which was made into a movie in 1970 starring Dustin Hoffman and Chief Dan George.

See also *Black Hills*; *Crazy Horse*; *Crook, George*; *Custer, George Armstrong, Fort Laramie (1868)*, *Treaty of*; *Sitting Bull*.

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BIBLIOGRAPHY

- Brown, Dee. *Bury My Heart at Wounded Knee: An Indian History of the American West*. New York: Holt, Rinehart and Winston, 1970.
- Connell, Evan S. *Son of the Morning Star: Custer and the Little Bighorn*. New York: Harper and Row, 1984.
- Kammen, Robert, Joe Marshall, and Frederick Lefthand. *Soldiers Falling into Camp: The Battles at the Rosebud and the Little Big Horn*. Encampment, Wyo.: Affiliated Writers of America, 1992.
- Marshall, Joseph M., III. *The Journey of Crazy Horse: A Lakota History*. New York: Penguin Group, 2004.
- Rankin, Charles E., ed. *Legacy: New Perspectives on the Battle of the Little Bighorn*. Helena: Montana Historical Society Press, 1996.
- Scott, Douglas D., Richard A. Fox Jr., Melissa A. Connor, and Dick Harmon. *Archaeological Perspectives on the Battle of the Little Bighorn*. Norman: University of Oklahoma Press, 1989.

Little Crow

Little Crow (c. 1810–1863) was an influential leader of the Mdewakanton Dakota (Sioux) from 1846 until his death. In 1862 he led the largest Indian war since the seventeenth century.

As westward expansion pushed the U.S. frontier into Minnesota, the Dakotas faced the dilemma of whether to embrace “civilization” or resist. Little Crow was gravitating toward a position of civilization and was one of the first Dakota chiefs to engage in diplomacy and politics. Critics labelled him an accommodationist. He was elected Dakota tribal spokesman for the 1851 negotiations with the government, which produced treaties that ceded the bulk of Dakota lands (twenty-four million acres) in exchange for compensation and annuities.

The Dakota tribal bands were equally divided into an upper and a lower reservation, both relatively narrow strips of land along the Minnesota River. The government encouraged Indians to settle, farm, and convert to Christianity, and it provided annuities to fund these programs. The chief felt he had acted in the best interests of the tribe, and yet these acts of good faith were often exploited.

As Minnesota became a state in 1858, Little Crow led a disillusioned delegation to Washington, D.C., to discuss treaty provisions that had been broken, but the intransigent officials he met coerced him into signing away more land. Adding insult to injury, money from the land sale went to local white traders to settle the debts they claimed were owed them. Little Crow's standing suffered substantially as a result. His position then grew increasingly tenuous with the spectre of internal rifts, as he was blamed widely for tribal misfortune and loss of land.

In 1862 the accumulation of crop failures, refused credit, delayed annuities, and nonpayments compelled a group of Dakotas from the lower reservation to raid a government warehouse for extra food. They also called for Little Crow to be replaced as tribal spokesman. On August 4, 1862, a group of Dakotas returning from a hunting expedition killed five white settlers. The lower Dakotas debated the situation throughout the night, with Little Crow counselling a peaceful resolution in the shadow of an inevitable confrontation with local whites. Others urged a preemptive strike, believing that whatever their stance they would be punished, and that a strike during the Civil War would be opportunistic timing. In an apparent bid to retain his standing, Little Crow finally acceded to the growing clamour for action and agreed to lead an attack the next morning that resulted in the deaths of twenty whites.

The Dakota forces then burned New Ulm, raided Hutchinson and Forest City, and staged an unsuccessful attempt to take Fort Ridgely. In response, President Abraham Lincoln sent out volunteer infantry regiments from Minnesota, many of whom were Civil War veterans, to put down the uprising. Troops under Col. Henry H. Sibley, the former governor of Minnesota, defeated the Dakota resistance on September 23 at Wood Lake. Little Crow then returned his war captives and fled for a time to Canada.

For their part in the attacks, 303 Dakotas were sentenced to death. After reviewing all the cases, Lincoln suspended the sentences of all but thirty-eight of those convicted, and they were executed en masse on December 26, 1862. As a result of the thirty-eight-day uprising in which as many as four

hundred whites were killed, the Dakotas were removed from the state.

Little Crow returned to Minnesota the following year to raid horses. After being separated from his group, he was shot and killed on July 3, 1863, while gathering berries. The settler who killed him was seeking the bounty on any Dakota killed in Minnesota. In 1971 Little Crow's grandchildren successfully fought for the repatriation of his remains from a Minnesota museum.

See also Sibley, Henry H.; *United States–Dakota War of 1862*.

Sam Hitchmough

BIBLIOGRAPHY

- Anderson, Gary C. *Little Crow: Spokesman for the Sioux*. St. Paul: Minnesota Historical Society Press, 1986.
- Anderson, Gary C., and Alan R. Woolworth, eds. *Through Dakota Eyes: Narrative Accounts of the Minnesota Indian War of 1862*. St. Paul: Minnesota Historical Society Press, 1988.
- Schultz, Duane. *Over the Earth I Come: The Great Sioux Uprising of 1862*. New York: St. Martin's Press, 1992.

Little Turtle

Mishikinakwa or Little Turtle (c. 1747–1812) was born in the vicinity of Blue Lake in present-day northeastern Indiana. He was the son of a Miami war chief also named Mishikinakwa (The Turtle). Accounts vary, but most historians accept that his mother was Mahican, a tribe in the Algonquian Nation in the northeast that had been invited to settle near the Miamis as early as 1720.

Little Turtle rose to prominence as a war chief in the 1780s and 1790s. By the 1780s, Miami Town (Kekionga), the principal Miami village located at the headwaters of the Maumee River, had emerged as a center of Indian resistance to U.S. encroachments north of the Ohio River. The Miami Confederacy, made up of militant factions of many Great Lakes tribes, including the Shawnee and Delaware, as well as some western Iroquoian groups, was centered at Kekionga. As a war chief of the confederacy, Little Turtle orchestrated several successful military actions, including notable victories over the U.S. forces of Generals Josiah Harmar (1790) and Arthur St. Clair (1791).

Despite these successes, Little Turtle had concluded by 1794 that further military resistance was futile. He had advocated negotiating with the Americans prior to the disastrous defeat of the Miamis and other confederated tribes at Fallen Timbers (1794). At the negotiations of the Treaty of

Greenville (1795), in which the confederated tribes in the region ceded much of what is now Ohio, Little Turtle emerged as a principal spokesperson for the Miamis.

From 1795 until his death in 1812, Little Turtle played a key role in U.S.-Indian relations in the Old Northwest. As a treaty chief, he zealously oversaw the cession of Miami lands to the United States and managed to secure large annuities for his people. Little Turtle also adopted an assimilationist stance, reportedly remarking on one of several trips to the U.S. capital that while the Americans “spread like oil on a blanket,” the Indians “melt like the snow before the sun.” “If things do not greatly change,” he continued, “the red men will disappear very shortly” (Constantin F. S. Volney, *A View of the Soil and Climate of the United States of America*, 1968). As an assimilationist, Little Turtle worked with U.S. officials and Quaker missionaries to implement Jeffersonian “civilization programs” among the Miamis. Although a successful war and treaty chief, Little Turtle’s assimilation policies were resisted by more conservative factions of the Miamis.

See also *Fallen Timbers* (1794), *Battle of; Greenville* (1795), *Treaty of; Harmar, Josiah*; *St. Clair, Arthur*.

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BIBLIOGRAPHY

- Anson, Bert. *The Miami Indians*. Norman: University of Oklahoma Press, 1970.
- Carter, Harvey Lewis. *The Life and Times of Little Turtle*. Chicago: University of Illinois Press, 1987.
- Mann, Rob. “The Silenced Miami: Archaeological and Ethnohistorical Evidence for Miami-British Relations, 1795–1812.” *Ethnohistory* 46, no. 3 (1999): 399–427.
- Volney, Constantin F. S. “A View of the Soil and Climate of the United States of America.” In *Contributions to the History of Geology*, edited by George W. White, 2:352–427. New York: Hafner Publishing Co., 1968.

Little Wolf

Early in life, after establishing himself as a warrior and strategist in encounters with the Pawnees and with the whites, Little Wolf (Ohkom Kakit) (c. 1820–1904) was selected as one of four wisest, or “Old Man Chiefs,” of the Northern Cheyenne tribe.

As a young man, Little Wolf fought in several important engagements against the U.S. Army: in the action to avenge the killings of Cheyennes at Sand Creek in 1865; in the Fetterman Fight of 1866, and in the Bozeman Trail War from 1865–1868. In June 1876, Little Wolf and a small band of Cheyenne encountered U.S. Army Lieutenant Colonel

George Armstrong Custer in eastern Montana, which prompted Custer to attack the villages on the Little Bighorn a day earlier than planned. Little Wolf fought in the series of battles that the U.S. launched to retaliate for Little Bighorn.

In 1878 about one thousand Cheyennes (including Little Wolf) agreed to move to a reservation provided they were allowed to live somewhere in their traditional lands. Instead, the government sent them to what later became Oklahoma. After suffering disease, starvation, and poverty, Little Wolf, the leader Dull Knife, and about three hundred others escaped from Oklahoma. For the next several months, tens of thousands of troops searched for the Cheyennes. Dull Knife and about half of the Cheyennes were captured in Nebraska and imprisoned there. In January 1879 many of them were massacred during an escape attempt. The others, under the leadership of Little Wolf, reached Montana where they were eventually granted a reservation.

See also *Bozeman Trail War* (1865–1868); *Fetterman Massacre* (1866); *Reservations*; *Sand Creek Massacre* (1864).

Alan Boye

BIBLIOGRAPHY

- Boye, Alan. *Holding Stone Hands, on the Trail of the Cheyenne Exodus*. Lincoln: University of Nebraska Press, 1999.
- Grinnell, George Bird. *The Cheyenne Indians*. 2 vols. New Haven, Conn.: Yale University Press, 1928.
- Standish-in-Timber, John, and Margot Liberty. *Cheyenne Memories*. New Haven, Conn.: Yale University Press, 1967.

Lone Wolf v. Hitchcock (1903)

The case of *Lone Wolf v. Hitchcock* (1903) issued a devastating decision against the interests of tribal nations when the U.S. Supreme Court held that Congress had the unilateral power to abrogate (abolish) treaties between the United States and an Indian tribe.

In 1867 the confederated Kiowa, Comanche, and Apache tribes signed the Medicine Lodge Creek treaty (actually three separate treaties) with the United States and agreed to move to a reservation. The treaty stated that any future land cessions would require the approval of three-fourths of the adult males of the tribes. The General Allotment Act (Dawes Act) of 1887 required the allotment of tribal lands, and a government commission secured an agreement to allot the Kiowa reservation in 1892 and sell the “surplus” land to non-Indian homesteaders. Congress approved the “agreement” in 1900, after having ended the practice of using treaties to deal with the tribes in 1871. However, the gov-

ernment failed to obtain the consent of three-fourths of the tribe's men as required by the 1867 treaty. On this basis, a Kiowa named Lone Wolf sued Secretary of the Interior Ethan A. Hitchcock to stop the 1892 allotment and cession of Kiowa, Comanche, and Apache lands. He also asked for a restraining order prohibiting the General Land Office from opening the remainder of the reservation lands to white settlement.

The Supreme Court considered two issues: first, whether the United States was bound by the terms of the treaty, and second, whether the Indians had a right to obtain "just compensation" for a "taking" of their land under the Fifth Amendment of the Constitution. The Court ruled that Congress has "plenary authority"—or complete authority—over Indian relations, if it acts in "perfect good faith." The Court, however, declined to review whether Congress had acted in good faith. The Court also determined that Congress had the power "to abrogate the provisions of an Indian treaty" and that the federal courts could not review or overturn that congressional decision.

The Court also rejected Lone Wolf's claim that the tribes' lands had been "taken" by the United States when the reservation was allotted and the surplus lands sold, deeming the tribe to have received "just compensation" as required under the Fifth Amendment. Because Congress possessed plenary power, and the Court "must presume that Congress acted in good faith," the Court ruled that no "taking" had occurred.

This case raised the vital question of whether there was a legitimate or constitutional basis for congressional plenary power over Indian affairs. The ruling relied on the 1886 decision in *United States v. Kagama* (1886), in which the Court found that the source of congressional power to assume criminal jurisdiction over Indian country was the reduction of tribal political status from "domestic dependent nations" to "wards" of the federal government. In *Lone Wolf*, the Court extended that reasoning to tribal property, noting that the reservation was "the property of those who, as we have held, were in substantial effect the wards of the government." During the federal Indian policy era of assimilation and allotment, the relationship between the federal government and Indian tribes was solely based upon power rather than trust, protection, equity, or inherent treaty rights. In effect, the Supreme Court's ruling in *Lone Wolf* allowed for the stronger "guardian" sovereign to constitutionally impose its power on the weaker "ward" by asserting its plenary power to diminish tribal sovereignty. Some legal scholars thus categorize *Lone Wolf* with the major Supreme Court

cases that impaired the rights of other minorities, such as *Dred Scott v. Sanford* (1857), which declared that people of African descent were not citizens of the United States.

While the declaration of congressional plenary power in federal Indian law and policy has occasionally benefited tribes by protecting their lands and sovereignty from state jurisdiction, it has more often seriously undermined tribal political integrity and property. Despite the questionable foundation of its constitutional basis, no assertion of congressional plenary power has ever been overturned by the Court.

While the legal legacy of *Lone Wolf* has not been explicitly overruled, the standards of the case were reformulated in *United States v. Sioux Nation of Indians* (1980). The Court rejected the idea that congressional plenary power over Indian treaties and land settlements was not subject to judicial review and declared that a taking of Indian land was subject to judicial review and Fifth Amendment compensation. But cases in the late twentieth century, such as *Sioux Nation*, only narrowed, but did not overturn, the doctrine that Congress can unilaterally abrogate Indian treaty rights.

See also *Allotment in Severalty; General Allotment Act (Daves Act) of 1887; Medicine Lodge Creek (1867), Treaty of; Treaty Abrogation; United States v. Kagama* (1886).

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BIBLIOGRAPHY

Clark, Blue. *Lone Wolf v. Hitchcock: Treaty Rights and Indian Law at the End of the Nineteenth Century*. Lincoln: University of Nebraska Press, 1999.

Lone Wolf v. Hitchcock, 187 U.S. 553 (1903).

Shattuck, Petra T., and Jill Norgren. *Partial Justice: Federal Indian Law in a Liberal Constitutional System*. New York: Berg Publishers, 1991.

United States v. Kagama, 118 U.S. 375 (1886).

United States v. Sioux Nation of Indians, 448 U.S. 371 (1980).

Long, Stephen Harriman

Stephen Harriman Long (1784–1864) was an engineer and soldier, who, while leading military and scientific expeditions in the trans-Mississippi west, met with and observed several American Indian tribes.

Long, a native of New Hampshire, was a graduate of Dartmouth College. In 1814 he was commissioned a lieutenant (engineering) in the U.S. Army.

In 1817 Long explored the Fox and Wisconsin Rivers and the upper Mississippi. In 1819 he was directed by Secretary of War John C. Calhoun to journey west in search of the

source of the Red River. The Long Expedition of 1819, as it came to be called, ascended the Platte River to the Rocky Mountains and then moved south. Along the way, Long and the scientists on the expedition—Titian Peale, Thomas Say, Edwin James, and Samuel Seymour—interacted with tribes such as the Otoes, Arapahos, Pawnees, Osages, Cheyennes, Comanches, and Omahas, and recorded their customs, behavior, and language. Long's description of the region as the "Great Desert" persuaded policymakers that the land was unfit for American settlement. Not coincidentally, the proponents in the War Department of Indian removal then identified the area as a prime relocation area for the tribes in the East.

In 1823 Long was ordered to head north to explore the Minnesota (St. Peter's) River. On the expedition, Long and his cohorts, including scientists Thomas Say and William Keating, met with the Crows, Sacs and Foxes, Potawatomis, Chippewas (Anishinabes), Ottawas, and Menominees. The group's report, *Narrative of an Expedition to the Source of St. Peter's River*, included ethnographic observations of Indian customs and behavior.

The Long expeditions and accompanying reports, while providing fascinating firsthand accounts of the varied tribes of the trans-Mississippi west, now seem condescending toward the Indians, branding them indolent and barbarous. The explorers were pessimistic as well about the future of relations between the United States and the Indian tribes.

See also Calhoun, John C.; *Lewis and Clark Expedition; Northwest Ordinance; Removal.*

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BIBLIOGRAPHY

- Goodman, George J., and Cheryl A. Lawson. *Retracing Major Stephen H. Long's 1820 Expedition: The Itinerary and Botany*. Norman: University of Oklahoma Press, 1995.
- James, Edwin. *Account of an Expedition from Pittsburgh to the Rocky Mountains, Performed in the Years 1819, 1820*. London: Longman, 1823.
- Keating, William H. *Narrative of an Expedition to the Source of St. Peter's River, Lake Winnepeck, Lake of the Woods, &c. &c. Performed in the Year 1823*. Philadelphia: H. C. Carey and I. Lea, 1824.

Lord Dunmore's War (1774)

Lord Dunmore's War is the name given to the battles between the residents of Virginia and the Shawnee tribe of Ohio country in the fall of 1774. After several violent incidents on the frontier, Lord Dunmore, governor of Virginia,

initiated a successful attack against the Native Americans that eventually eliminated the Shawnee claim to Kentucky and permitted white settlers to travel safely on the Ohio River.

The Proclamation Line of 1763 established the western Appalachian Mountains as the boundary of English settlement, but ambitious frontiersmen founded towns in Kentucky and western Pennsylvania nevertheless. The continued animosity between the frontiersman and Shawnees prompted several unsanctioned attacks on Indians. For example, Capt. Michael Cresap led several random attacks on Native Americans in what some call "Cresap's War."

In late April 1774, Daniel Greathouse and other frontier ruffians lured several Indians from a peaceful Mingo hunting party led by a Mingo named Logan across the Ohio River to Baker's Bottom (in present-day West Virginia). There, nine Indians, including members of Logan's own family, were ruthlessly murdered in what became known as the Yellow Creek Massacre. Outraged, the pacifist Logan, along with a small band of Mingo and Shawnee warriors, retaliated by murdering frontier settlers.

Allegedly in response to the ongoing bloodshed on the frontier caused by Cresap's War and Logan's revenge, Lord Dunmore called out a force of three thousand men to march against the Indians, and he retained command of about half of them and marched toward Fort Pitt. Gen. Andrew Lewis, leading about eleven hundred troops, was directed to advance to the mouth of the Big Kanawha River and wait for a rendezvous. Meanwhile, Maj. Angus McDonald and some five hundred troops attacked the Shawnee village of Wapatomica.

After establishing Camp Charlotte at Pickaway Plains, Dunmore sent for Lewis to join him. On that same night, October 9, 1774, the Shawnee war chief Cornstalk arrived near the camp with a confederation of eleven hundred warriors. The warriors cautiously advanced six miles upriver before crossing, hoping to prevent detection. In the early morning of October 10, Cornstalk led the assault. The Battle of Point Pleasant lasted the entire day before the Virginians flanked the Indians and forced them to retreat across the Ohio. The colonists lost 20 percent of their army, including many officers. No official report of Indian casualties exists, but at least forty were killed.

General Lewis then proceeded toward Pickaway Plains to destroy the Indian villages. As he approached, however, word reached him that the Indians had called at Camp Charlotte. After learning of the destruction of Wapatomica and fearing for the fate of their other villages, the Indian confederacy

sued for peace. The Treaty of Camp Charlotte ended the hostilities of Lord Dunmore's War. Cornstalk and eight other chiefs agreed to abstain from attacking travelers on the Ohio River and relinquished claims to land south of the Ohio River. Lord Dunmore's War reinforced the animosity between Virginians and many of the Indians of the Ohio Country, some of whom swore to never give up their Kentucky hunting grounds.

See also *American Revolutionary War*; *Great Britain, Indian Policy of*; *Indian Policy of the Continental Congress*; *Virginia, Indian Policy of*.

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BIBLIOGRAPHY

- Holton, Woody. "The Ohio Indians and the Coming of the American Revolution in Virginia." *Journal of Southern History* 60 (August 1994): 453–478.
- Hunter, W. H. "First Battle of the American Revolution." *Ohio Archaeological and Historical Society Publications* 11 (July 1902): 93–102.
- Randall, E. O. "The Dunmore War." *Ohio Archaeological and Historical Society Publications* 11 (October 1902): 167–195.

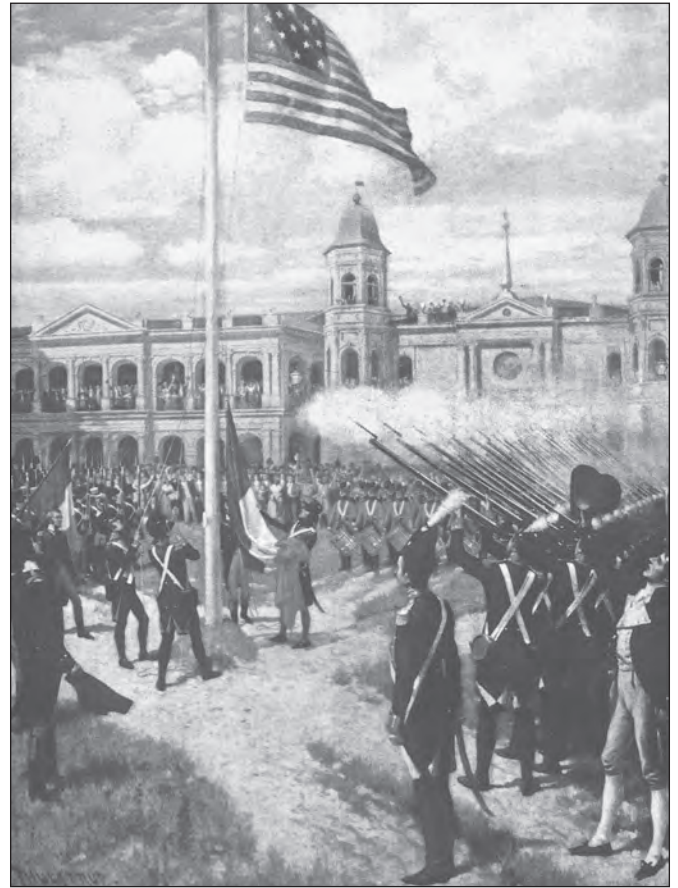
Louisiana Purchase

In 1803 the United States signed a treaty with France to purchase rights to the Louisiana Territory, a vast tract of over 800 million acres west of the Mississippi River, for \$15 million. This act doubled the size of the United States and placed thousands of American Indians and dozens of tribal nations, living between the Mississippi River and the Rocky Mountains, under the presumed authority of the United States.

Many historians and commentators have rated the Louisiana Purchase "the greatest real estate deal in history" because the United States paid about three or four cents an acre. However, the United States did not buy any land in the Louisiana Purchase from France, because France did not claim to own land in the Territory—only the rights to acquire it. The Indian nations actually owned, occupied, and used the land in the Territory.

Jefferson's Role

President Thomas Jefferson was well aware of this fact; he wrote many times that the Indian nations were still the proprietors, or owners, of the land in Louisiana. In fact, over the next one hundred years the United States signed treaties with as many as a hundred of the tribal nations that lived in the Louisiana Territory, which allowed the United States to



The purchase of the Louisiana Territory, celebrated in an 1803 New Orleans ceremony, granted the United States the right to be the sole purchaser of land from the Indians who owned the territory.

pay cash and trade goods to extinguish the nations' titles. Furthermore, dozens of American Indian tribes still own millions of acres of land in what was the Louisiana Territory. One scholar calculated that the United States paid tribes over \$300 million to buy the lands they were willing to sell within the Territory. What France sold the United States in 1803, then, was not land, but the right to be the only purchaser of tribal lands when and if Indians ever chose to sell any land (usually referred to as the right of preemption). The United States also bought the sovereign and commercial rights to be the only government to trade and engage in diplomatic relations with the tribal nations in the Louisiana Territory.

France acquired these rights in Louisiana under the European international law known as the Doctrine of Discovery, because it was purportedly the first European Christian country to discover the area. Under the French interpretation of the doctrine, the French explorers who

traveled the Mississippi—and established such towns as St. Louis and St. Genevieve and then found the mouth of the Mississippi River—acquired these rights for France to the entire drainage system of the Mississippi, even including the Missouri River and the millions of acres of land that made up its watershed.

Until it lost the French and Indian War (1754–1763) against England, France held this claim from the Appalachia and Allegheny Mountains all the way west to the Rocky Mountains. At the end of that war, France formally ceded its discovery rights in land east of the Mississippi River to England and ceded its rights to land west of that river, or the Louisiana Territory, to Spain.

When he assumed the presidency, President Thomas Jefferson was content that Spain still held the Louisiana Territory. He called Spain “that feeble old man” and assumed that Louisiana would fall to the United States whenever the country was ready to take it. But Spain sold Louisiana to France in a secret treaty in 1800. (Formal transfer of the territory from Spain to France did not occur until just a few weeks before the Louisiana Purchase in 1803.) When the U.S. government learned of the agreement, it, with great alarm, also learned of the return of French control of the Mississippi River, in view of Napoleon’s apparent interest in restoring the French empire in North America.

Even worse, in 1798 Spain had revoked the Pinckney Treaty (1795), which guaranteed the right of Americans to navigate the Mississippi and store goods at New Orleans. This dramatic strike against the U.S. economy effectively cut off three-eighths of the trade of U.S. goods to foreign markets. Some members of Congress had called for war to reopen the port. By 1801, however, a new Spanish government had revived the treaty and reopened the Mississippi and New Orleans to American commerce. Still, Jefferson and other U.S. officials feared a future closing of the Mississippi and were determined to avoid future interruptions.

In 1803 Jefferson sent James Monroe, a former ambassador to France, to assist the current ambassador to France, Robert Livingston, who was negotiating to buy the city of New Orleans. They were authorized to pay up to \$10 million for the city. By this point, Napoleon had decided to abandon his plans for the restoration of a North American empire, because he needed funds to prepare for a renewal of war against Great Britain. He therefore ordered his emissaries to attempt to sell France’s rights to the entire Louisiana Territory for \$15 million. Monroe and Livingston quickly agreed without any authorization from President Jefferson.

Jefferson initially considered the treaty unconstitutional, because he believed the federal government did not have the authority under the Constitution to increase the size of the United States. Thus he drafted a constitutional amendment to authorize the Louisiana Purchase. Jefferson expressly guaranteed in his amendment that the tribal nations in the Louisiana Territory would continue to hold the right to occupy their territory and maintain their political autonomy. (Jefferson was well aware that the treaty between France and the United States did not affect the title Indian nations had to their lands.) In addition, in July 1803 Jefferson said that the United States would occupy the city of New Orleans, but that Americans would not be allowed to settle in the remainder of the Louisiana Territory and that it would remain under the authority of the Native peoples who lived there. In October 1803, in his Third Annual Message to Congress, Jefferson recommended that Congress confirm “to the Indian inhabitants their occupancy and self-government” and establish “friendly and commercial relations with them.” Nevertheless, Jefferson’s cabinet convinced him to keep quiet about his constitutional qualms and to push the treaty through Congress without letting people know of his concerns about its constitutionality.

Jefferson was delighted with the Louisiana Purchase because it enhanced the practicality of his plan to remove all the Indian nations from the eastern side of the Mississippi River to the western side. In May 1803, Jefferson had revealed his plan to remove the eastern tribes even before the purchase had been transacted. Now that the United States had bought France’s Doctrine of Discovery sovereign and commercial rights in the Louisiana Territory, Jefferson assumed he had even more authority to carry out his removal policy. He thus began writing letters to tribes, encouraging them to consider the possibility of surrendering their lands in the east and removing into the newly acquired territory.

Defining the Territory

Jefferson was also very interested in the boundaries of the Louisiana Territory. In 1804 he personally researched and drafted a forty-page pamphlet, “The Limits and Bounds of Louisiana.” In the pamphlet, Jefferson argued that the country drained by the Missouri River and its tributaries would determine the northernmost reaches of Louisiana and thus the new northernmost boundary of the United States.

Even before the Louisiana Purchase, President Jefferson had launched an expedition by U.S. Army officers

Meriwether Lewis and William Clark to explore the interior of North America, while traveling all the way to the Pacific Ocean, to exert America's political and commercial control across the continent. Because the Louisiana Purchase was finalized in 1803 after Lewis left Washington, D.C., on the expedition, in January 1804 Jefferson wrote a new letter of instruction to Lewis, which included the news that the United States had purchased France's rights in Louisiana. Jefferson explained that Lewis's mission had changed significantly because the United States had now gained a form of sovereignty over the tribes in the Louisiana Territory and the right to engage in commercial and diplomatic relations with them. He instructed Lewis to proclaim U.S. sovereignty in the Territory, but he cautioned him that the Indian inhabitants still retained the right to occupy their lands. He also instructed Lewis to initiate commerce with the tribes met by the expedition, to inform them that the United States had succeeded to the rights to the territory, and that Jefferson, the president, was now their father and friend. Lewis and Clark followed these instructions, which marked the beginning of efforts by the United States to impose its will on the Indian nations in the Louisiana Territory. But the subjugation of the tribes in the territory would take most of the rest of the century.

In fact, Jefferson indirectly had Indians pay for the U.S. purchase of the Louisiana Territory. During the Jefferson administration, millions of acres of Indian lands were purchased for five to twenty-five cents an acre and immediately resold to American settlers and planters for \$1.25–\$2.00 an acre. Jefferson wrote that the profits from these sales of Indian lands made the United States so much money that it could pay off the loans to buy the Territory before they even came due. The United States also paid off other debts and helped fund the operation of the government from these profits for many years.

The Louisiana Territory was used exactly as Jefferson foresaw: an area in which to relocate the eastern Indians and an area in which the United States could expand. The American expansion occurred so quickly, in fact, that areas expected to be put aside for Indian tribes for generations were quickly settled, thereby prompting the United States to force these tribes to accept smaller and smaller reservations. The Indian Territory, which is now eastern Oklahoma, was supposed to remain Indian Country and never become part of any state. That concept, as well as many of the rights of the Indian people and tribes, also fell to American expansion and ambitions.

See also *Indian Territory; Lewis and Clark Expedition; Jefferson, Thomas; Removal; U.S. Indian Policy: Congress and the Executive, 1803–1848.*

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BIBLIOGRAPHY

- Ford, Paul Leicester, ed. *The Writings of Thomas Jefferson (1892–1899)*. Vol. 8. New York: G. P. Putnam's Sons, 1892.
- Jackson, Donald, ed. *Letters of the Lewis and Clark Expedition with Related Documents 1783–1854*. 2nd ed., Vol. 1. Champaign: University of Illinois Press, 1978.
- Jefferson, Thomas. "The Limits and Bounds of Louisiana." In *Documents Relating to the Purchase and Exploration of Louisiana*. Boston: Houghton Mifflin, 1904.
- Kennedy, Roger G. *Mr. Jefferson's Lost Cause: Land, Farmers, Slavery, and the Louisiana Purchase*. New York: Oxford University Press, 2003.
- Kukla, Jon. *A Wilderness So Immense: The Louisiana Purchase and the Destiny of America*. New York: Knopf, 2003.
- Marshall, Thomas Maitland. *A History of the Western Boundary of the Louisiana Purchase, 1819–1841*. Berkeley: University of California Press, 1914.
- Miller, Robert J. *Native America, Discovered and Conquered: Thomas Jefferson, Lewis and Clark, and Manifest Destiny*. Westport, Conn.: Greenwood Press, 2006.
- Sheehan, Bernard W. *Seeds of Extinction: Jeffersonian Philanthropy and the American Indian*. Chapel Hill: University of North Carolina Press, 1973.
- Tucker, Robert W., and David C. Hendrickson. *Empire of Liberty: The Statecraft of Thomas Jefferson*. New York: Oxford University Press, 1990.
- Wallace, Anthony F. C. *Jefferson and the Indians: The Tragic Fate of the First Americans*. Cambridge, Mass.: Belknap Press, 1999.

Lowry, Henry Berry

Henry Berry Lowry (or Lowrie) (c. 1844–c. 1872) was a Lumbee Indian hero of the Civil War and Reconstruction era. The legend of Lowry's fight against injustice and racial oppression has remained a powerful symbol of Lumbee identity and ideals.

As the Civil War approached in the mid-nineteenth century, the Lumbees of Robeson County, North Carolina, were experiencing unprecedented levels of racial discrimination. Once the war began, many Lumbees, including Lowry, hid out in the swamps in the area to avoid conscription into Confederate forced labor camps.

In 1864 Lowry was accused of stealing food, an event that sparked violent conflict between Lowry and the Confederate Home Guard. In retaliation for Lowry's theft, the Home Guard tried and executed Lowry's father and brother. Lowry then formed a gang and hunted down members of the guard.

A short time later, Lowry was arrested, but he escaped from jail in 1865. He returned to the swamps and reconsti-

tuted the “Lowry Band,” which was made up of Indians, African Americans, and poor whites. During Reconstruction, the Lowry Band became the Robin Hood gang of Robeson County, robbing rich white landowners and redistributing their wealth to the poor and the dispossessed. The band also attacked federal troops in the area and fought with the Ku Klux Klan and other white supremacist groups. By 1870, Lowry was among the most wanted men in North Carolina, but he was never captured. He disappeared in 1872, and the many explanations of his whereabouts only added to his legend.

Although elite whites feared them, the resistance exerted by the Lowry Band to the repressive racial power structure filled the Lumbees with pride and confidence. Today, Lowry is still revered for both his unification of the Lumbees and for his formation of a pluralistic alliance to defy racial oppression and injustice.

See also *Civil War (1861–1865); Race and Racial Thinking.*

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BIBLIOGRAPHY

- Dial, Adolph L. *The Only Land I Know: A History of the Lumbee Indians*. Syracuse, N.Y.: Syracuse University Press, 1996.
- Evans, W. McKee. *To Die Game: The Story of the Lowry Band, Indian Guerillas of Reconstruction*. Baton Rouge: Louisiana State University Press, 1971.
- Sider, Gerald M. *Living Indian Histories: Lumbee and Tuscarora People in North Carolina*. Chapel Hill: University of North Carolina Press, 2003.
- Wilkins, David E. “Henry Berry Lowry: Champion of the Dispossessed.” *Race, Gender and Class* 3 (Winter 1996): 97–111.

Lyng v. Northwest Indian Cemetery Protective Association (1988)

In *Lyng v. Northwest Indian Cemetery Protective Association*, 485 U.S. 439 (1988), the Supreme Court held that the building of a road by the U.S. Forest Service between the California towns of Gasquet and Orleans (G-O road) to promote logging did not violate tribal free exercise of religion rights under the First Amendment of the U.S. Constitution. However, a majority of the justices stated that the road would, according to the Forest Service’s own report, be “potentially destructive of the very core of Northwest religious beliefs and practices.”

The case highlights an important issue for Native Americans: the sites that are historically, religiously, and culturally significant to them are usually located on federal,

state, or private lands. As a result, tribal and Indian use of their sacred sites is often at risk, and the protection of these sites is mostly beyond tribal control.

The road at the center of *Lyng* was to traverse the “High Country”—an area that several northern California tribes considered religiously significant and that tribal citizens used for vision quests. More specifically, at issue was the tribal religious use of the Chimney Rock area of the Six Rivers National Forest. Religious leaders of the Yurok, Karok, and Tolowa tribes had used this area for centuries for religious and medicinal ceremonies. This use was crucial to the continued existence of these tribes and to their religious and cultural lives.

Environmental groups and the state of California joined tribal groups in suing Richard E. Lyng, the secretary of agriculture, to stop the G-O road. The U.S. District Court for the Northern District of California and the U.S. Court of Appeals for the Ninth Circuit both held that the building of the road through the Chimney Rock area would burden and violate tribal rights under the free exercise of religion clause of the First Amendment. The courts found that the logging road did not serve a compelling governmental interest and thus would not be allowed to burden the religious practices.

The Supreme Court disagreed. The majority of the Court held instead that the building of the G-O road would not burden tribal religious practices because the road would not prohibit the exercise of the tribal religions or force the practitioners to violate their own religion. Consequently, the government was not even required to point to a compelling governmental interest that might justify building the G-O road. The tribal religious and cultural interests and rights and the issue of protecting a sacred site were ignored. Indeed, the report by the anthropologist hired by the Forest Service recommended that the road not be built and that the area instead be nominated for the National Register of Historic Places. The Forest Service ignored this recommendation. (Later actions, however, prevented the G-O road and logging from being undertaken in the Chimney Rock area.)

The plaintiffs relied on, among other things, the American Indian Religious Freedom Act of 1978 to protect their interests in the High Country. The Supreme Court, however, found that the act was nothing more than a policy statement and did not create a cause of action on which the plaintiffs could rely.

See also *American Indian Religious Freedom Act (AIRFA) of 1978; Religious Freedom; Sacred Sites.*

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BIBLIOGRAPHY

- Carpenter, Kristen A. "A Property Rights Approach to Sacred Sites Cases: Asserting a Place for Indians as Nonowners." *UCLA Law Review* 52 (2005): 1061.
- Deloria, Vine, Jr. *God is Red: A Native View of Religion*. 2nd ed. Golden, Colo.: Fulcrum Publishing, 1994.
- Lyng v. Northwest Indian Cemetery Protective Association*, 485 U.S. 439 (1988).
- Miller, Robert J. "Correcting Supreme Court Errors: American Indian Response to *Lyng v. Northwest Indian Cemetery Protective Ass'n*." *Environmental Law* 20 (1990): 1037.

Lyons, Oren

Oren Lyons (1930–) is a spokesman for the Iroquois Grand Council and an activist in Native American and world indigenous issues.

Lyons was raised in the culture of the Iroquois on the Seneca and the Onondaga reservations in New York State. After serving in the U.S. Army, he graduated from Syracuse University's College of Fine Arts in 1958. He then worked in commercial art in New York, becoming art and planning director of a major greeting card company, where he supervised the work of two hundred artists.

In 1970 Lyons returned to Onondaga and became an advocate for the Native American people there. He participated in many forums and workshops on Indian and environmental issues and gained an international reputation as a prominent expert on indigenous rights. In 1981 he was invited by the Nambassa Trust to visit New Zealand, where he attended workshops with the Maori peoples. In 1990 Lyons helped resolve the conflict between Mohawk activists and the authorities at Kanesatake, Quebec. Two years later, he coauthored an important work on Native American sovereignty and legal rights, *Exiled in the Land of the Free: Democracy, Indian Nations, and the U.S. Constitution*.

Among his honors, in 1992 Lyons addressed the General Assembly of the United Nations, where he opened the International Year of the World's Indigenous People at the United Nations Plaza in New York. He was later awarded an honorary doctorate by Syracuse University.

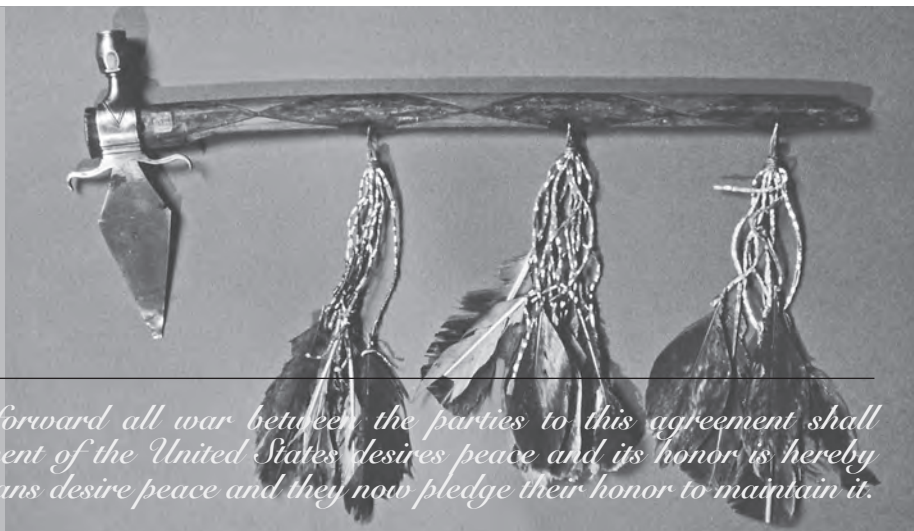
See also *Indian Rights Movements.*

Justin Corfield

BIBLIOGRAPHY

- Berry, Paul, ed. *Keepers of the Spirit: Stories of Nature and Humankind*. Hillsboro, Ore.: Beyond Words Publications, 1993.
- Lyons, Oren, John Mohawk, and Vine Deloria Jr. *Exiled in the Land of the Free: Democracy, Indian Nations, and the U.S. Constitution*. Santa Fe, N.M.: Clear Light, 1992.

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Article 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they now pledge their honor to maintain it.

MacDonald, Peter

Peter MacDonald (1928–), a Navajo, was born in Teec Nos Pos, Arizona, to father Daghalani Begay (“Many Whiskers’ Son”) and mother Glahhabath (“Many Warriors Over the Hill”). Begay died when MacDonald was only two, and to help his family earn a living, MacDonald left school in the sixth grade and began herding sheep. At fifteen he joined the U.S. Marines and became a Navajo code talker. After being discharged, MacDonald received his high school equivalency degree and entered Bacone Junior College. In 1957 he obtained an electrical engineering degree from the University of Oklahoma and went to work for Hughes Aircraft Company and Aerospace Group.

Longing to further the Navajo Nation’s tribal rights and autonomy, MacDonald returned to the reservation and served on the New Mexico Economic Development Advisory Board in 1963. He then became the director of the Office of Navajo Economic Opportunity (ONEO) and Navajo Nation chair from 1970–1982 and 1986–1989. While serving as chair, MacDonald renegotiated the leases of Navajo land and expanded the tribe’s rights to draw water from the Colorado River. In 1975 he cofounded the Council of Energy Resource Tribes (CERT) and led the organization in selling the reservation’s oil and uranium deposits to increase the Navajos’ economic power.

During his first term as chair of the nation, MacDonald defended the Navajos’ interests in their land dispute with the Hopi tribe. Despite his efforts, Congress passed a law in 1974 partitioning the disputed territory and requiring several thousand Navajos to relocate.

In 1987 MacDonald authorized the Navajo council to purchase the Big Boquillas Ranch, a large plot close to the

reservation, for \$33 million. After an investigation into claims that MacDonald had taken bribes to facilitate this purchase and other deals, the U.S. and Navajo governments charged him with corruption in 1989. He was convicted for bribery and suspended as chair. After being pardoned in 2001, MacDonald returned to fighting for Navajo autonomy and water rights.

McDonald’s career was representative of a new generation of Native leaders who were focused on tribal economic development and self-determination, and the complex consequences that come with it.

See also *Council of Energy Resource Tribes; Hopi-Navajo Relations.*

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BIBLIOGRAPHY

- Dobyns, Henry F., and Robert C. Euler. *The Navajo People*. Phoenix, Ariz.: Indian Tribal Series, 1972.
- MacDonald, Peter, and Ted Schwarz. *The Last Warrior: Peter MacDonald and the Navajo Nation*. New York: Orion Books, 1993.
- Markowitz, Harvey, and McCrea Adams, eds. *American Indian Biographies*. Pasadena, Calif: Salem Press, 1998.

Mackenzie, Ranald S.

Ranald Slidell Mackenzie (1840–1889) was a U.S. Army officer who participated in some of the most important campaigns in the 1870s Indian wars in the West.

Mackenzie was born in New York City and in 1862 graduated first in his class from the U.S. Military Academy at West Point. He immediately went into the service, where he had a brilliant career, rising from second lieutenant to major general during the Civil War.

After the war, Mackenzie returned to the rank of captain and was assigned to cavalry duty in the West. In 1872, as

commander of the Fourth Cavalry, he put down Kiowa and Comanche raiders and forced them to move to a reservation near Fort Sill in the Indian Territory. His unit was then sent to the Rio Grande Valley to deal with the Kickapoo and Apache warriors who were raiding U.S. settlements from a base in Mexico. The cross-border attack on the Kickapoos in the Battle of Remolino temporarily upset relations between Mexico and the United States.

In 1874 Mackenzie helped defeat the Comanches and Kiowas in the Red River Valley. One of his major decisions was to deprive the Comanches of their all-important mobility by destroying all of their horses, which may have numbered as many as fourteen hundred. The Fourth Cavalry then moved north, where it participated in the campaign against the Arapahos, Sioux, and Northern Cheyennes in the uprising that had resulted in the annihilation of the Seventh Cavalry at the Battle of Little Bighorn. In October 1876, Mackenzie's troops forced Red Cloud's Sioux band back to its reservation. In November he defeated the Northern Cheyennes under Dull Knife; they were trying to return to their homeland from their exile in Indian Territory. This action effectively ended the Black Hills War.

In 1881 Mackenzie's troops forced the Utes to a reservation in Utah. During this period, Mackenzie also participated in attempts to capture groups of Apaches who were raiding white settlements in New Mexico and Arizona.

Mackenzie was one of the most effective American commanders during the post-Civil War Indian conflicts. And yet, despite his combat skills, Mackenzie was not unmindful of the need to conserve lives, and he made significant efforts to prevent fighting during his years on the frontier. Like Gen. William T. Sherman, he was by no means unsympathetic to the plight of Native Americans, but he was determined to end the fighting by force if necessary.

Mackenzie began suffering mental difficulties in the early 1880s, and he retired from the army in 1884. One historian has suggested that Mackenzie may have suffered from post-traumatic stress disorder. He died in 1889.

See also *Civil War*; *Dull Knife*; *Grant, Ulysses S.*; *Red River War*; *United States-Indian Wars (1848-1891)*.

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BIBLIOGRAPHY

- Pierce, Michael D. *The Most Promising Young Officer: A Life of Ranald S. Mackenzie*. Norman: University of Oklahoma Press, 1993.
- Robinson, Charles M. *Bad Hand: A Biography of General Ranald S. Mackenzie*. Austin, Tex.: State House Press, 1993.

Wallace, Ernest. *Ranald S. Mackenzie on the Texas Frontier*. Lubbock: West Texas Museum Association, 1964.

Madison, James

James Madison (1751–1836), the primary architect of the U.S. Constitution, was the fourth president of the United States (1809–1817). His administration's Indian policy was marked by the suppression of two major Indian uprisings in the nation's western territories.

Born and raised on a large plantation in Virginia, Madison vividly remembered fleeing with his parents and neighbors from Indian attacks during the French and Indian War (1756–1763). Later, he graduated from the College of New Jersey (Princeton), and developed close friendships with George Washington and Thomas Jefferson during the American Revolutionary War. Madison was a powerful influence at the Constitutional Convention, and authored several of *The Federalist Papers*, which argued for ratification of the Constitution by the states. As a member of Congress, he drafted the Bill of Rights and founded the Democratic Republican Party with Thomas Jefferson. While serving as secretary of state under President Jefferson, Madison facilitated the Louisiana Purchase.

As president, Madison was preoccupied with deteriorating foreign relations with Great Britain, leaving him little time to manage federal Indian policy. As a result, his administration tended to follow the precedents established by his predecessors in office. In particular, Madison followed the government's existing plans for the "civilization" of its Indian population and the acquisition of their lands. President Washington and his secretary of war, Henry Knox, had advocated a process whereby the United States would provide Indians with the means to become farmers acculturated to Anglo-American civilization. Under Washington's plan, as Indian men abandoned hunting and became farmers, they would no longer need as much land and could cede it to the United States, which would, in turn, distribute it to U.S. citizens. Gradually, Washington and Knox predicted, the people of the United States would assimilate the Native American tribes as the nation expanded to the West.

At the outset of Madison's presidency, the Indian tribes in the western territories of the United States were peaceful, but in 1811 Shawnee leader Tecumseh and his brother, the nativist prophet Tenskwatawa, led a pan-Indian movement of tribes in the Old Northwest to drive Americans out of the region. Tecumseh carried Tenskwatawa's call for revolt to the south, where many Creeks, who became known as Red

Sticks, also wanted to destroy the influence of Anglo-American culture and drive American settlers back toward the east.

The United States thus faced Indian threats in the northwest and southwest at the same time that a major war was looming with Great Britain. However, U.S. forces under Gen. William Henry Harrison destroyed the northwest uprising and killed Tecumseh at the Battle of the Thames, while in the southwest troops under Gen. Andrew Jackson destroyed the Red Stick resistance at the Battle of Horseshoe Bend. These events essentially ended the viability of Native armed resistance against the United States east of the Mississippi River, resulted in the acquisition of vast tracts of land from the vanquished tribes, and opened up lands to American settlements west to the Mississippi.

In addition to signing treaties that required land cessions from the Creeks at Fort Jackson (1814) and the defeated tribes of the Northwest Confederacy at Portage des Sioux (1815), the Madison administration established new federal forts or reoccupied old ones in the Great Lakes and sent agents into the region to persuade the tribes to transfer their allegiance and trade to the United States. Madison also asked the government to renew its efforts to civilize the now pacified Indians in the hope that they eventually would be assimilated.

However, the American victories over the several tribes during the War of 1812, the refusal of Indians to embrace the civilization program en masse, and the rising value of land caused by the emergence of the cotton economy prompted new calls from Gen. Andrew Jackson and Rep. John C. Calhoun, R-S.C., for the removal of the eastern tribes to the west. Madison's administration was thus a transitional period when the government began to abandon its plans for assimilating the Indian population and contemplate a removal of the tribes to the west.

See also Calhoun, John C.; *Creek Civil War (1813–1814)*; *Fort Jackson (1814)*, *Treaty of*; *Indian Policy: Congress and the Executive, 1803–1848*; Jefferson, Thomas; Knox, Henry; *Louisiana Purchase*; Tecumseh; *Tenskwatawa*; *War of 1812 (1812–1814)*; Washington, George.

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BIBLIOGRAPHY

- Dowd, Gregory Evans. *A Spirited Resistance: The North American Indian Struggle for Unity, 1745–1815*. Baltimore, Md.: Johns Hopkins University Press, 1993.
- Prucha, Francis Paul. *American Indian Policy in the Formative Years: The Indian Trade and Intercourse Acts, 1790–1834*. Cambridge, Mass.: Harvard University Press, 1962.

Rakove, Jack. *James Madison and the Creation of the American Republic*. Upper Saddle River, N.J.: Longman Press, 2006.

Mahone, Fred

By documenting tribal land use, writing petitions, badgering politicians, and taking his case to the Supreme Court, Fred Mahone (c. 1888–1972), a Hualapai, changed Indian history.

Mahone was born on the Hualapai Indian reservation, where he lived for all but six years. Mahone's long life was similar to that of many other Indians of his generation. Native people who were born and came of age during the late nineteenth and early twentieth centuries faced many challenges. During this period, the Office of Indian Affairs (OIA, later renamed the Bureau of Indian Affairs, BIA) was midway through its assimilation project. Indian lands were being reduced to a fraction of their former size, and the American Indian population had reached its lowest point. Mahone was not immune to the effects; he and the Hualapais were deeply affected by Indian policies that subjected many Indians to permanent poverty and isolation. The Hualapai reservation was bisected by a railroad, grazed by non-Indian ranchers, and coveted by mining companies. Situated to the immediate south and west of Grand Canyon National Park, the reservation, then and now, was isolated but a place of stunning beauty. Like that of many Indians of his generation, Mahone's world revolved around the reservation.

Mahone was, however, a product of two worlds. The six years he spent away—in Kansas at the Chilocco Indian School, in France as a soldier in World War I, and in southern California as a political activist—were life-changing. At school, he received an education and learned what it meant to be a citizen; as a soldier and veteran he came to believe that his country owed him something for his service; and as a young man in southern California, under the influence of the radical, pro-sovereignty, anti-BIA Mission Indian Federation, Mahone became a pioneering political activist.

During his lifetime, Mahone relentlessly pursued Hualapai land claims through the courts, thereby saving the tribe's land from seizure by the government and corporate interests. Moreover, the Hualapai's case revolutionized Indian law. The Supreme Court declared in *United States v. Santa Fe Railroad* (1941) that Indians had title to their land based on occupancy from time immemorial. According to the Court, the Indian "occupancy necessary to establish aboriginal possession is a question of fact to be determined as any other question of fact." Previously, courts and lawyers had argued

that because the Hualapais had no treaty they had no land rights and no facts could be presented to prove otherwise. By making occupancy the basis of title to the land and by making proof of occupancy dependent on history, the Supreme Court tossed out this line of reasoning. Mahone continued to advocate for his people until his death in 1972.

See also *Aboriginal Indian Title; U.S. Supreme Court and Indian Policy, 1935–1965.*

Christian W. McMillen

BIBLIOGRAPHY

McMillen, Christian W. *Making Indian Law: The Hualapai Case and the Birth of Ethnohistory*. New Haven, Conn.: Yale University Press, 2007.

Hoxie, Frederick E. *A Final Promise: The Campaign to Assimilate the Indians*. Lincoln: University of Nebraska Press, 1984.

United States v. Santa Fe Railroad, 314 U.S. 339 (1941).

Major Crimes Act (1885)

The Major Crimes Act was enacted in 1885 in direct response to *Ex Parte Crow Dog* (1883), a case in which the Supreme Court held that federal courts lacked jurisdiction over Indian-on-Indian crimes in Indian Country. The act provides for federal jurisdiction over seven major crimes committed by Indians on their own lands—murder, manslaughter, kidnapping, maiming, rape and related offenses, incest, and assault with intent to commit murder. In 1886 the Supreme Court upheld the constitutionality of the act.

Over the years, the original offenses have been expanded to over a dozen more crimes, including a variety of property crimes involving property worth as little as \$1,000. Offenses prosecuted under the Major Crimes Act are a major part of the workload of United States Attorneys with jurisdiction over Indian reservations.

The Major Crimes Act does not strip Indian nations of their jurisdiction over these crimes, and modern courts hold the jurisdiction to be concurrent. Indian tribes, as an attribute of their sovereignty following *Ex Parte Crow Dog*, have the right to try and punish Indians in Indian Country, generally meaning Indian reservations, but with some broader reach. The impact of the Major Crimes Act is that the federal government also has jurisdiction over offenses enumerated in the act. In *United States v. Wheeler* (1978), the Supreme Court held that double jeopardy does not apply because a tribe has a distinct government, and so it is possible for an Indian to be tried twice for one of these offenses, once by the federal government under the Major Crimes Act and

then by the tribe under tribal law. In ordinary circumstances, either the tribal prosecutor or the U.S. attorney will defer prosecution to the other jurisdiction. In particular, the \$1,000 limit on property crime is so low that many relatively ordinary property crimes fall under federal jurisdiction, but the federal government has little interest in such prosecutions, routinely deferring to tribal courts.

The Major Crimes Act was intended to subject the Indian nations to federal law with the two-fold purpose of protecting Indians living there and depriving the tribes of criminal jurisdiction. In a period of forced assimilation, the fact that the Indian tribes retained their own laws and customs was a threat to U.S. laws and values, standing in the way of the assimilation of Indians into the mainstream of American life. *Ex Parte Crow Dog* described Indian tribal law as uncivilized, but at the same time the Supreme Court upheld it. The continued existence of the Major Crimes Act more than a century later repeatedly reminds the tribes of this history.

The combined legacy of the Major Crimes Act, rooted in the plenary power doctrine (the principle that Congress has complete authority over Indian affairs) and the tribes' ongoing adherence to their systems of law following *Crow Dog* has produced a pattern of "checkerboard jurisdiction" in Indian Country. Because in *Oliphant v. Suquamish Indian Tribe* (1978) the Supreme Court prohibited tribal courts from exercising criminal jurisdiction over non-Indians, a simple fight involving mutual assault charges between an Indian and a non-Indian would require two trials in two different courts: tribal (for the Indian) and state (for the non-Indian). If the assault rises to a felony assault under the Major Crimes Act, three courts could be involved because the federal court also takes jurisdiction over the Indian.

The thousands of prosecutions under the Major Crimes Act have led to a chaotic situation in Indian Country, with Indians often tried and later imprisoned hundreds of miles away from their homes and witnesses and family members forced to travel great distances to attend trials. At the same time, many Native scholars point out that there is no evidence that modern Indian court systems cannot adequately try such cases more efficiently and closer to home. Extending the jurisdiction of tribal courts would promote sovereignty as well as encourage more culturally sensitive resolutions of a larger number of cases.

See also *Crime, Regulating in Indian Country; Ex Parte Crow Dog* (1883); *Oliphant v. Suquamish Indian Tribe* (1978).

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BIBLIOGRAPHY

- Ex Parte Crow Dog*, 109 U.S. 556 (1883).
 Garrow, Carrie E., and Sarah Deer. *Tribal Criminal Law and Procedure*. Walnut Creek, Calif.: AltaMira Press, 2004.
 Harring, Sidney L. *Crow Dog's Case: American Indian Sovereignty, Tribal Law, and United States Law in the Nineteenth Century*. New York: Cambridge University Press, 1994.
Oliphant v. Suquamish Indian Tribe, 435 U.S. 191 (1978).
 Ross, Jeffrey Ian, and Larry Gould. *Native Americans and the Criminal Justice System*. New York: Paradigm Publishers, 2006.
United States v. Wheeler, 435 U.S. 313 (1978).
 Washburn, Kevin. "American Indians, Crime, and the Law." *Michigan Law Review* 104 (February 2006): 709–777.
 ———. "Federal Criminal Law and Tribal Self Determination." *North Carolina Law Review* 84 (April 2006): 779–885.

Mangas Coloradas

Mangas Coloradas (c. 1791–1863), also called Red Sleeves, was a member of the Mimbreno Apaches. He led raids into Mexican settlements after a conflict between the Apaches and the Mexican government escalated to the point that the Mexican government placed a bounty on Indian scalps.

After the U.S.–Mexico War (1848), the United States took possession of the New Mexico Territory, and American settlers began to migrate west into and through Apache territory. The greater presence of settlers and the lack of proper respect for the Apaches angered Mangas. In 1852 Mangas himself was the target of a violent attack; a group of miners captured and severely whipped him, increasing his enmity toward settlers. After his release, Mangas raided white settlements and attacked travelers in an attempt to force them from Apache territory.

In response, the U.S. Army was directed to force the Apaches onto reservations. Mangas Coloradas responded with guerrilla attacks on settlers and against U.S. Cavalry troops, who were unprepared for an elusive enemy who could strike and disappear into the mountains.

When the Civil War (1861–1865) broke out, U.S. Cavalry troops were recalled, and so they abandoned their forts in Apache territory. The governor of California assumed responsibility for military protection of settlers and miners and dispatched a column of troops to the region. In 1862 Coloradas, Cochise (Apache leader and the husband of Mangas's daughter), and about five hundred Chiricahua and Mimbreno Apaches attacked the California column in southern Arizona. Coloradas was shot in the chest during the battle, but he continued to press the attack. He recovered and returned to lead more raids against American settlements.

In 1863 Coloradas was invited by U.S. military authorities to a peace treaty meeting at Fort McLane in New Mexico. But the call for the parley was a ruse, and Coloradas was murdered in his cell by soldiers who claimed he was trying to escape.

See also *Apache Wars (1860–1886)*; *Cochise*; *Mexico, Indian Policy of*; *United States–Indian Wars (1848–1891)*.

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BIBLIOGRAPHY

- Comfort, Will Levington. *Apache*. Lincoln: University of Nebraska Press, 1986.
 Roberts, David. *Once They Moved Like the Wind*. New York: Simon and Schuster, 1993.

Manifest Destiny

See *Westward Migration*.

Mankiller, Wilma

Born in Tahlequah, Oklahoma, Wilma Mankiller (1945–) became the first woman to serve as deputy chief of the Cherokee Nation in 1983 and the first female principal chief in 1985, a position she held until 1995.

Mankiller's family moved to the San Francisco area in the mid-1950s as a part of the federal relocation program. Coming of age in California during the 1960s, Mankiller experienced the activism of the era—notably the reassertion of Indian sovereignty as manifested in such events as the seizure of Alcatraz Island in 1969 and the Pit River land struggle. After returning to Oklahoma in the late 1970s, she became involved in community development work for the Cherokee Nation, which led to her participation in tribal electoral politics.

As chief, Mankiller entered into a historic compact with the federal government in 1990 that recognized a government-to-government relationship between the United States and the Cherokee Nation. In 1992 she signed a tobacco compact with the state of Oklahoma. While some Indian leaders criticized this move, the language in the compact characterized the agreement as one between the Cherokee Nation and Oklahoma on a government-to-government basis, which to many self-determination advocates represented an expression of sovereignty.

Mankiller's name and status attracted considerable media attention, which in turn afforded her a national platform to advocate for greater self-determination for Indian tribes.



Wilma Mankiller, left, receives the Presidential Medal of Freedom from President Bill Clinton in January 1998. Mankiller received the medal in recognition of her work as leader of the Cherokee Nation.

While she supported sovereignty for Native American tribes in general, her primary focus as chief centered on protecting and expanding Cherokee sovereignty. She continues to teach and lecture across the country on Native leadership and revitalizing tribal sovereignty.

See also *Alcatraz Island, Seizure of (1969); Relocation.*

Sarah Eppler Janda

BIBLIOGRAPHY

Mankiller, Wilma, and Michael Wallis. *Mankiller: A Chief and Her People*. New York: St. Martin's Press, 1993.

Manuelito

Manuelito (1818–1894), as Mexicans called him, or Hastiin Ch'il Hajin, as he was known to most Navajos, was born into the Bit'ahni clan (Folded Arms People) near Bear Ears, Utah. He was noted for his resistance to Mexican and American invasions and seizures of Navajo lands, his commitment to Navajo sovereignty, and his advocacy for an American education for Navajo children.

By the time the Americans claimed the Southwest in 1846, Manuelito was already regarded as a fierce warrior for his exploits during Navajo skirmishes with the Mexican army in the preceding decade. In 1851 the establishment of Fort Defiance in Navajo territory led to a war with the U.S. Army that ended in the Navajos' defeat. The conflict began in 1858, when Major Thomas H. Brooks asserted control of the pastures for army use. In defiance, Manuelito continued to pasture his livestock on the lands, whereupon Brooks ordered the Navajo livestock slaughtered. Following a number of violent incidents and insults, Brooks declared war. In 1860 Manuelito, Barboncito (another Navajo leader), and one thousand warriors attacked Fort Defiance but were unable to take the fort. Forces under Colonel Edward S. Canby chased the Navajos into the Chuska Mountains, where Manuelito escaped capture.

The outbreak of the American Civil War (1861–1865) distracted the American military and Fort Defiance was abandoned. However, during the war tales of gold and silver in Navajo Country caused white settlers to begin moving into the region, and Navajos were soon blamed for mounting attacks upon the New Mexican settlements.

After several attempts at peace with the Navajos, a full-scale war against them began in the summer of 1863. Manuelito led the Navajo resistance. Finding Navajos to be an obstacle to white expansion, General James H. Carleton ordered their removal to a reservation near Fort Sumner, New Mexico, to "learn the arts of civilization." When the Navajos refused to leave, troops under the command of Indian fighter Christopher "Kit" Carson destroyed their homes, farms, and livestock. The Navajos were rendered destitute. By the end of 1863 they arrived at forts Defiance and Wingate to surrender. As prisoners, they endured a journey of more than 375 miles to the Bosque Redondo reservation in northeastern New Mexico. Many Navajos died on the journey and at the Bosque Redondo from disease and starvation.

Manuelito, however, vowed to remain free and refused to take the so-called Long Walk. The U.S. Army attempted to capture or kill him, fearing that he served as inspiration to other rebels. In 1866, wounded and ill, Manuelito finally surrendered and was interned at the Bosque Redondo. On June 1, 1868, Manuelito and other leaders signed a treaty providing them with territory back in their homeland. Seventeen days later, over eight thousand Navajos began the journey home.

Upon his return, Manuelito remained an influential leader among his people. He was appointed head of the first

Navajo police that kept order on the reservation. In 1874 he traveled with his wife and other Navajo leaders to Washington, D.C., to meet President Ulysses S. Grant. In the 1880s he sent two of his sons to Carlisle School in Pennsylvania as a message to his people that they should not fear Western education. He hoped the children would return and use what they had learned for the betterment of the Navajo. After his death in 1894, his wife and daughters carried on his teachings about the importance of education and the retention of land for the coming generations.

See also *Bosque Redondo*; Carleton, James Henry; *Carlisle Indian School*; Carson, Christopher "Kit"; *Mexico, Indian Policy of*; *Navajo War (1849–1868)*.

Jennifer Denetdale

BIBLIOGRAPHY

- Bailey, Lynn. *Bosque Redondo: An American Concentration Camp*. Pasadena, Calif.: Socio-Technical Books, 2003.
- Bruchac, Joseph. *Navajo Long Walk: Tragic Story of a Proud Peoples' Forced March from Homeland*. Washington, D.C.: National Geographic Society, 2002.
- Denetdale, Janet Nez. *Recovering Diné History: The Legacies of Navajo Chief Manuelito and Juanita*. Tucson: University of Arizona Press, 2007.
- Iverson, Peter. *Diné: A History of the Navajos*. Albuquerque: University of New Mexico Press, 2002.

Manypenny, George W.

As commissioner of Indian affairs from 1853 to 1857, George W. Manypenny (1808–1892) oversaw the opening of the Kansas-Nebraska Territory to settlement by whites following passage of the Kansas-Nebraska Bill in 1854.

Manypenny was born in Pennsylvania but spent most of his adult life in Ohio, where he owned several newspapers and worked in real estate. He was appointed commissioner of Indian affairs by President Franklin Pierce.

Because of his interest in a transcontinental railway, Illinois senator Stephen A. Douglas pushed the Kansas-Nebraska Act through Congress in 1854, separating Kansas and Nebraska from the Indian Territory and opening these territories to settlers. For many of the affected tribes, who had been previously moved out of the Old Northwest, this meant the lands that had been promised to them "forever" were taken after only a few years. In 1854 and 1855, Manypenny negotiated major treaties with the Kickapoos, the Delawares, the Shawnees, the Omahas, the Missouris, the Iowas, and the Sac and Fox for their relocation from Kansas

and Nebraska into the Indian Territory (in what is present-day Oklahoma). Indian families that wished to stay where they were received individual parcels of land under fee simple title according to provisions of some of these treaties; this action foreshadowed the policy later adopted in the General Allotment Act (Dawes Act) of 1887.

Since these tribes were being relocated onto lands promised to the five major southeastern tribes (Cherokee, Chickasaw, Choctaw, Creek, and Seminole) as part of their permanent homelands, new treaties were made with the southeastern groups in which they ceded some of their lands for the resettlement of the tribes from Kansas and Nebraska. Manypenny doubted the wisdom and justice of these removals even as he negotiated with the Kansas and Nebraska tribes. As he traveled through the region, he saw no great numbers of potential settlers and concluded that relocating the Natives was a political issue dictated by the demands of the railroads. The Indians negotiated with a lack of enthusiasm, he noted. He summed up his opinion of the dealings in his 1854 *Annual Report of the Commissioner of Indian Affairs*: "By alternate persuasion and force these tribes have been removed, step by step, from mountain to valley, and from river to plain, until they have been pushed halfway across the continent. They can go no further; on the ground they now occupy the crisis must be met, and their future determined."

The government made a total of fifty-two new treaties involving resettlement of tribes and the creation of reservations during Manypenny's tenure as head of the Office of Indian Affairs (OIA). He sought to change the way annuities were paid to tribes from cash to in-kind payments of live-stock and equipment that would encourage Indians to farm. He also sought to protect tribal annuities from false claims for damages from white settlers near the reservations, earning him the enmity of many western politicians.

Manypenny disagreed with the general policy of investing responsibility for relations with nonreservation Indians with the military, while Indians on reservations were under the supervision of the OIA. He believed that when Congress transferred Indian affairs from the War Department to the Interior Department, it brought all Indians under OIA administration. As the United States expanded into the Pacific Northwest and the Southwest in the 1840s, there were numerous conflicts in these regions. Although Manypenny believed many of the conflicts were caused by the encroachment of white settlers and aggressive action by army officers, he also thought it was important to establish

reservations where the Indians could be settled and given a chance to become farmers and assimilate.

In Utah, Indian affairs were complicated by the conflicts between Mormons and non-Mormons over federal appointments in the territory. In 1850 Mormon leader Brigham Young was appointed territorial governor and territorial superintendent of Indian affairs. He and Manypenny generally agreed that the Indians in Utah needed to be confined to reservations, but Congress often failed to authorize the funds to allow negotiators to compensate Indians for title to their lands.

After he left the OIA, Manypenny continued to write and speak about Indian affairs and was a part of the "Friends of the Indians" movement that advocated more just treatment of the Indians. He also served as a special commissioner on a number of Indian treaties in the 1870s and 1880s. In 1876 he chaired the Sioux Commission, which secured the controversial cession of the Black Hills from the Sioux. In 1880 he served on the Ute Commission, which oversaw the removal of that tribe from Colorado to reservations in Utah. Although some of his earlier treaties contained provisions that allowed Indians to remain on individual allotments, Manypenny opposed the passage of the General Allotment Act (Dawes Act) of 1887.

See also *Allotment in Severalty*; *Black Hills*; *Bureau of Indian Affairs*; *Commissioner of Indian Affairs*; *General Allotment Act (Dawes Act) of 1887*; *Indian Territory*; *Railroads*; *Removal*.

Mark S. Joy

BIBLIOGRAPHY

- Kvasnicka, Robert M. "George W. Manypenny, 1853–1857." In *The Commissioners of Indian Affairs, 1824–1977*, edited by Robert M. Kvasnicka and Herman J. Viola, 57–67. Lincoln: University of Nebraska Press, 1979.
- Ludwig, Andrea. "Manypenny, George Washington, 1808–1892." In *Handbook of North American Indians*, Vol. 4, edited by William C. Sturtevant, 665. Washington, D.C.: Smithsonian Institution, 1988.
- Manypenny, George W. *Our Indian Wards*. Cincinnati, Ohio: Robert Clarke & Co., 1880.
- Office of the Commissioner of Indian Affairs. *Annual Report of the Commissioner of Indian Affairs, 1854*. Washington, D.C.: Government Printing Office, 1854.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.

Marshall, John

John Marshall (1755–1835), chief justice of the United States from 1801 to 1835, was perhaps the most important architect of federal Indian law.

Marshall was the first of fifteen children of a Virginia family. Before his appointment to the Supreme Court, he served the federal and Virginia governments in a variety of capacities: soldier in the Revolutionary War, state legislator, foreign commissioner, attorney general for Virginia, member of Congress, and secretary of state under President John Adams. At times, however, Marshall was reluctant to give up his lucrative private law practice for public life, declining offers to become an ambassador to France, U.S. attorney general, and associate justice of the Supreme Court. Marshall was also a slave owner who engaged in land speculation.

Marshall joined the Supreme Court as chief justice in 1801, and served in that capacity for the next thirty-four years, until his death. As chief justice, he used the Court's opinions to elevate its significance in the federal system, expand the authority of the national government in relation to the states, and promote the national interests of the United States. His most important opinions, among many others, included *Marbury v. Madison* (1803), which affirmed the Court's responsibility for judicial review; *Fletcher v. Peck* (1810), and *Dartmouth College v. Woodward* (1819), which used the Constitution's contract clause as a tool to protect vested property interests; *McCulloch v. Maryland* (1819), which used the necessary and proper clause of the Constitution to expand the breadth of the federal power to regulate; and *Gibbons v. Ogden* (1824), which helped define the authority of the national government to regulate interstate commerce.

Marshall's foundational contribution to federal Indian law was most fully expressed in three cases: *Johnson v. M'Intosh* (1823), *Cherokee Nation v. Georgia* (1831), and *Worcester v. Georgia* (1832). This collection of cases is known as the Marshall Trilogy.

The source of controversy in *Johnson v. M'Intosh* was tracts of land originally owned by the Illinois and Piankeshaw tribes and later sold to non-Natives. In 1773 and 1775, the tribes sold the to-be-disputed lands directly to Joshua Johnson and Thomas J. Graham at a British military post in view of military and civil officers. Subsequently, the United States gained title to the disputed tracts from the Illinois and Piankeshaw tribes and sold them to William M'Intosh in 1818. The question before the Supreme Court was who

owned the land. In deciding that the disputed land belonged to M'Intosh, Marshall and his colleagues cemented the Doctrine of Discovery as a foundational principle of federal Indian law. This doctrine states that a "discovering" European nation has the right (often referred to as the right of preemption) against all other European nations to acquire title to tribal lands. The discovering European nation can acquire title through either purchase or conquest. Under the Doctrine of Discovery, tribes maintain a right of occupancy, or Indian title or aboriginal title as it is also called. According to Marshall, "In the establishment of these relations, the rights of the original inhabitants were, in no instance, entirely disregarded; but were necessarily, to a considerable extent, impaired."

Cherokee Nation v. Georgia and *Worcester v. Georgia* arose out of a dispute between the Cherokee Nation and the state of Georgia. The cases were the culmination of a variety of factors that led to what may have been the greatest constitutional crisis before the Civil War. In the 1820s and 1830s, Georgia began extending state laws over tribal lands within the state's borders. Georgia became further emboldened with the election of Andrew Jackson as president in 1828. Jackson, whose national reputation was partially built on his experience as an Indian fighter, argued for a federal removal policy and was sympathetic to Georgia. In Congress, the advocates for removal, with the aid of Jackson, were able to enact the Removal Act of 1830 and set the stage for a standoff among Georgia, the president, and the Supreme Court.

The Cherokee Nation objected to Georgia's incursion into its sovereignty and sought relief through the Supreme Court. Most cases reach the Supreme Court through the appellate process, but the Court does have original jurisdiction in certain circumstances, including cases involving foreign nations. The lawyers for the Cherokees filed their case in the Supreme Court hoping that Marshall and his fellow justices would decide that the Cherokees constituted a foreign nation and thus would accept the case for hearing. Georgia sent no lawyers to the oral argument, stating that the Supreme Court did not have jurisdiction over the state. In the *Cherokee Nation* opinion, Marshall stated that tribes were not foreign nations but "domestic dependent nations." Through this technicality, the Court sidestepped a ruling on the merits of the case, thereby avoiding a conflict with Georgia and Jackson.

A year later, a more emboldened Marshall would directly challenge Georgia and Jackson. Samuel Worcester, a missionary from Vermont, and several other missionaries were con-

victed by Georgia courts for entering Cherokee territory without a state license. Worcester appealed to the Supreme Court. Once again, Georgia did not send lawyers. This time, in *Worcester v. Georgia*, the Court clearly possessed the authority to hear the case, because Worcester was a U.S. citizen appealing a state criminal conviction on the clear constitutional grounds that his case involved treaties (the Treaty of Hopewell and the Treaty of Holston) and a federal law (the Trade and Intercourse Act of 1802). The Court could not sidestep the issue. In the opinion for the Court, Marshall wrote that tribes were "distinct political communities" and that the authority to manage relations with Indian tribes belonged to Congress, not the states.

Jackson was determined to not enforce the decision. Although *Worcester* is widely regarded as the most pro-Indian case of the Marshall Trilogy, it did not have a happy ending. Because the Supreme Court ended its term shortly after the decision, Worcester's lawyers were unable to ask for an enforcement order. Georgia, seeking to avoid a confrontation with the federal government, offered a pardon to Worcester. The missionary accepted the pardon, ending the case and the Supreme Court's involvement in the issue. In 1838 the federal government rounded up most of the Cherokee population for removal to the Indian Territory (in what is now Oklahoma) along the Trail of Tears.

The Marshall Trilogy produced a series of principles often called the Marshall Model of Indian Rights. The Marshall Model posits that tribal land ownership is governed by the Doctrine of Discovery, that tribes are domestic dependent nations, that Congress has plenary (or complete) authority over Indian affairs, and that a trust relationship exists between the federal government and Indian tribes. Today, there is a growing debate within the scholarly community about the usefulness of the Marshall Model. One school of thought asserts that, when exercised properly by Congress and the courts, the Marshall Model is extremely effective in protecting tribal sovereignty. Another argues that the Marshall Model is, at best, a double-edged sword that will never escape the racist language and era that spawned it.

See also *Cherokee Nation v. Georgia* (1831); *Extension Laws; Jackson, Andrew*; *Johnson v. M'Intosh* (1823); *Removal; Supreme Court and Indian Policy, 1789–1871*; *Worcester v. Georgia* (1832).

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BIBLIOGRAPHY

Cherokee Nation v. Georgia, 5 Pet. (30 U.S.) 1 (1931).

- Garrison, Tim Alan. *The Legal Ideology of Removal: The Southern Judiciary and the Sovereignty of Native American Nations*. Athens: University of Georgia Press, 2002.
- Hobson, Charles F. *The Great Chief Justice: John Marshall and the Rule of Law*. Lawrence: University Press of Kansas, 1996.
- Johnson v. M'Intosh*, 8 Wheat. (21 U.S.) 543 (1823).
- Kades, Eric. "History and Interpretation of the Great Case of *Johnson v. M'Intosh*." *Law and History Review* 19, no. 1 (2001): 67–116.
- Newmyer, R. Kent. *John Marshall and the Heroic Age of the Supreme Court*. Baton Rouge: Louisiana State University Press, 2007.
- Norgren, Jill. *The Cherokee Cases: Two Landmark Federal Decisions in the Fight for Sovereignty*. Norman: University of Oklahoma Press, 2004.
- Robertson, Lindsay G. *Conquest by Law: How the Discovery of America Dispossessed Indigenous Peoples of Their Lands*. New York: Oxford University Press, 2005.
- Smith, Jean Edward. *John Marshall: Definer of a Nation*. New York: Henry Holt, 1996.
- Wilkinson, Charles F. *American Indians, Time, and the Law: Native Societies in a Modern Constitutional Democracy*. New Haven, Conn.: Yale University Press, 1987.
- Williams, Robert A., Jr. *Like a Loaded Weapon: The Rehnquist Court, Indian Rights, and the Legal History of Racism in America*. Minneapolis: University of Minnesota Press, 2005.
- Worcester v. Georgia*, 6 Pet. (31 U.S.) 515 (1832).

Mascots

Historically, thousands of high school, collegiate, and professional sports teams have used team names, nicknames, mascots, and customs that include Native American references. Some of these references are tribal names, such as the Florida State Seminoles or the University of North Dakota Fighting Sioux. Others are symbols such as braves and chiefs. Still others are exaggerated, caricatured, disparaging, or inappropriate depictions of Indian peoples and customs. Examples are the Atlanta Braves, the Washington Redskins, Chief Illiniwek (University of Illinois at Urbana-Champaign), and Chief Wahoo (Cleveland Indians).

Many mascots using Indian references are dressed in inauthentic regalia, including turkey headdresses. They also wear face paint and idealized or comical facial features, and they perform rituals that are deculturizing or inauthentic, including tomahawk chops, war whoops, and symbolic scalping.

The Harm Caused by American Indian Mascots

In April 2001, the U.S. Commission on Civil Rights recommended that all non-Indian schools drop their Native American mascots or nicknames, noting that "false portrayals that encourage biases and prejudices . . . have a negative effect on contemporary Indian people." In 2005 the American Psychological Association adopted a similar resolution, recommending the immediate retirement of Amer-

ican Indian mascots, symbols, images, and personalities by schools, colleges, universities, athletic teams, and organizations. The resolution stated that use of such mascots "establishes an unwelcome and often times hostile learning environment for American Indian students" and "appears to have a negative impact on the self-esteem of American Indian children."

As a result of the growing recognition of the adverse impact of such unauthorized references, many sports teams, state and local educational boards, and collegiate associations and officials have since changed their names and nicknames to remove Native American referent terms, or they have consciously established closer and more respectful relationships with the relevant Native American tribe. Thus, for example, the University of Oklahoma ceased using its "Little Red" mascot, and Florida State University worked with the Seminole leadership, who designed the costume for the university's Chief Osceola mascot. By agreement, the mascot appears only at home games and in the homecoming parade. In addition, members of the Seminole tribe are eligible for scholarships to the university. Other organizations have declined to participate in sporting events with teams using Native American-referent mascots and nicknames.

The use of American Indian mascots has been criticized as a contemporary example of continuing racial prejudice. Such claims are strengthened by analogies to similar uses of other racial and ethnic groups, which are uniformly rejected as inappropriate, including "blackskins" and "yellowskins." And yet the potential harm of certain mascots remains hotly debated in light of competing claims of school spirit, tradition, and intent to preserve and honor Native American traditions and customs. Moreover, survey evidence of American Indian views of the harmful nature of Native American-referent mascots has been inconsistent, making legal challenges to American Indian mascots problematic.

Legal Challenges

Because many mascots, team names, and nicknames are licensed for use on merchandise, including t-shirts, caps, and mugs, their use can be challenged as a violation of federal trademark law. The 1946 Lanham Act prohibits the registration of marks that "may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute." Based on the disparaging nature of the term "redskins," in 1992 several Native Americans, including activist Suzan Shown Harjo, filed a petition to cancel six federal

trademark registrations for the Washington Redskins. In 1999 the U.S. Patent and Trademark Office (USPTO) ordered the six registrations for the Washington Redskins cancelled on the grounds that “a substantial composite of the general public finds the word ‘redskin(s)’ to be a derogatory term of reference for Native Americans . . . [and] the derogatory connotation of the word . . . extends to the term ‘Redskins,’ as used in [the team’s] marks” (*Harjo v. National Football League* [T.T.A.B. 1999]). But the cancellation was later overturned on appeal. The U.S. District Court for the District of Columbia held that the disparagement claim was time barred, because the marks at issue had been used since the 1960s without challenge. Alternatively, it held that the USPTO’s conclusion of disparagement was not supported by the evidence, because it failed to demonstrate that the term “redskins” was offensive in the context of a professional football team (*Pro-Football, Inc. v. Harjo* [D.D.C. 2003]).

On appeal, this decision was also overturned. The U.S. Court of Appeals for the District of Columbia Circuit held that the claim was not necessarily time barred for one of the petitioners, who was born after the marks were first used. The court sent the case back to the district court to reconsider the issue of timeliness (*Pro-Football, Inc. v. Harjo* [D.C. Cir. 2005]). On remand, the district court determined that the petitioner’s claim was time barred because he had “unreasonably delayed” bringing the petition (*Pro-Football, Inc. v. Harjo* [D.D.C. 2008]). Meanwhile, another group of younger Native Americans filed a new cancellation petition against the marks, again alleging that they were disparaging. The district court ruled in July 2008 against the plaintiffs, and the case is headed to the U.S. Court of Appeals.

Even if the petitioners are ultimately successful, cancellation of the Washington Redskins registrations does not require the owners to cease using the marks. It means only that the owners will no longer continue to receive the benefits of federal registration. To force cessation of the use of the Washington Redskins mark, petitioners would have to file a lawsuit in the appropriate federal district court. But the outcome of such a lawsuit would most likely be strongly affected by the results of the present disparagement cases. Moreover, it is expected that additional issues will be raised about the owner’s property rights in the long-standing mark, particularly because it is the source of substantial merchandising income. It is also likely that for both parties, free speech issues under the First Amendment will be debated as well.

Title VI of the Civil Rights Act of 1964 has also been used to challenge the use of Native American mascots on

university campuses. Under Title VI, public universities “are prohibited from creating, encouraging, tolerating, or leaving uncorrected a racially hostile environment in any of its academic, extracurricular, or athletic programs.” For a violation of Title VI to occur, the Office of Civil Rights (OCR) must determine “that a racially hostile environment exists, that the school had actual or constructive notice of this racially hostile environment, and that the school failed to adequately correct this racially hostile environment.”

In 1995 the OCR investigated a complaint that use of the Chief Illiniwek mascot at the University of Illinois at Urbana-Champaign violated Title VI. Chief Illiniwek, an official symbol of the university, has been associated with the university’s intercollegiate athletic program since the 1920s. Chief Illiniwek is portrayed by a student dressed in regalia and performing a dance, both of which have been challenged as being inauthentic and disparaging. In 1994 students filed complaints with the OCR alleging that the presence of Chief Illiniwek and the use of the name “Fighting Illini” created a hostile learning environment for Native Americans. The OCR found the incidents not pervasive enough to qualify as a hostile environment under Title VI. In August 2005, the National Collegiate Athletic Association (NCAA) called Chief Illiniwek a “hostile and abusive” symbol, and it banned the university from hosting postseason activities as long as it continued to use the mascot. In April 2006, the NCAA rejected all of the university’s appeals and upheld its ban. The university ceased using Chief Illiniwek at its events in 2007.

Title II of the Civil Rights Act of 1964 has also proven useful in challenging American Indian mascots and nicknames. This statute guarantees all persons the right to the “full and equal enjoyment” of places of public accommodation without regard to race, color, religion, or national origin. Under this statute, it has been alleged that the use of Native American team names denies full and equal enjoyment on the basis of race by discouraging American Indian patronage, thereby effectively creating unequal access to the sports facilities. In 1999 the U.S. Department of Justice launched an investigation into whether use of the terms “warriors” and “squaws” in a North Carolina high school created a hostile environment or a denial of public accommodations. Ultimately, the school kept the term “warriors,” but eliminated use of “squaws.”

In addition to challenges under civil rights doctrines, legal claims for harassment, hate speech violations, and intentional infliction of emotional distress have also been suggested as

bases for challenging the use of Native American mascots. Although the success of these claims remains problematic, often the publicity surrounding such claims results in mediated settlements of the disputes and cessation of at least some of the disparaging or inauthentic references.

The controversies surrounding American Indian mascots are often emotional and hard fought, and the issue will no doubt give rise to conflicts for a long time to come. Although the legal battles serve as important backdrops to the controversy, grassroots efforts will continue to play a significant role in resolving such controversies.

See also *Race and Racial Thinking; Trademarks and Trade Names.*

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BIBLIOGRAPHY

- American Psychological Association. "APA Council of Representatives on August 21, 2005, Resolution Recommending the Immediate Retirement of American Indian Mascots, Symbols, Images, and Personalities by Schools, Colleges, Universities, Athletic Teams, and Organizations." Washington, D.C.
- Brown, Kristine A. "Native American Team Names and Mascots: Disparaging and Insensitive or Just Part of the Game?" *Sports Law Journal* 9 (2002): 115–130.
- Cheng, Phyllis K. "Native American Mascots in Public Schools and Colleges: Are They Worth Keeping?" *Public Law Journal* 24 (Summer 2001): 16–18.
- Civil Rights Act of 1964*, Public Law 82-352, 88th Cong., 2nd sess. (July 2, 1964).
- Connolly, M. R. "What's in a Name? A Historical Look at Native American Related Nicknames and Symbols at Three U.S. Universities." *Journal of Higher Education* 71, no. 5 (2000): 515–547.
- Crue v. Aiken*, 370 F.3d 668 (7th Cir. 2004).
- Dougherty, Terrence. "Group Rights to Cultural Survival: Intellectual Property Rights in Native American Cultural Symbols." *Columbia Human Rights Law Review* 29 (1998): 355–400.
- Harjo v. National Football League*, 30 U.S.P.Q. 2nd 1705 (T.T.A.B. 1999).
- King, C. Richard, and Charles Fruehling Springwood, eds. *Team Spirits: The Native American Mascots Controversy*. Nebraska: University of Nebraska Press, 2001.
- Lanham Act*, Public Law 79-489, 79th Cong., 2nd sess. (July 5, 1946).
- Lefstin, Jeffrey. "Does the First Amendment Bar Cancellation of Redskins?" *Stanford Law Review* 52 (2000): 665–708.
- Loving, Paul E. "Native American Team Names in Athletics: It's Time to Trade These Marks." *Loyola of Los Angeles Entertainment Law Journal* 13 (1992): 1–44.
- "Note: A Public Accommodations Challenge to the Use of Indian Team Names and Mascots in Professional Sports." *Harvard Law Review* 112 (1999): 904–921.
- Pewewardy, C. D. "Native American Mascots and Imagery: The Struggle of Unlearning Indian Stereotypes." *Journal of Navaho Education* 9, no. 1 (1991): 19–23.
- Pro-Football, Inc. v. Harjo*, 284 F.Supp.2d 96 (D.D.C. 2003).
- Pro-Football, Inc. v. Harjo*, 415 F.3d 44 (D.C. Cir. 2005).
- Pro-Football, Inc. v. Harjo*, — F.Supp.2d —, 2008 WL 2700897 (D.D.C. 2008).
- Rosner, Scott R. "Legal Approaches to the Use of Native American Logos and Symbols in Sports." *Virginia Sports and Entertainment Law Journal* 1 (2002): 258–273.
- University of Illinois at Urbana-Champaign. "Chief Illiniwek Dialogue Report," www.uillinois.edu/trustees/dialogue/report_files/V.html.
- U.S. Commission on Civil Rights. "Statement of U.S. Commission on Civil Rights on the Use of Native American Images and Nicknames as Sports Mascots," April 13, 2001, www.aics.org/mascot/civilrights.html.

Massachusetts, Indian Policy of

The Massachusetts Bay Colony dealt with the American Indians in three distinct groups: the Indian tribes who lived along the colonial border while still maintaining their independence; the "plantation (reservation) Indians" who lived within the colonial boundaries as groups and were under English rule; and a small number of individual Indians who lived within the English communities and were placed under the jurisdiction of the regular courts in the same fashion as the colonists.

The number and strength of independent tribes fell greatly during the colonial period. Before 1638, most of the Natives on Massachusetts's southern border retained their political independence, but they had been reduced to the status of "plantation" Indians. Some lost their tribal ties completely and so lived in the white communities. On the northern frontier, Massachusetts was confronted with many powerful tribes that comprised the "Eastern Indians" and the Pennacook Confederation. The colonial authorities recognized the importance of these Indians on the Canadian border during the intercolonial wars between England and France. The conference, the Native method of conducting diplomacy, thus became the major tool for not only maintaining Indian alliance and friendship, but also discussing the problems of jurisdiction, trade, commerce, and land. On the western frontier, when dealing with the Five Nations (Mohawk, Oneida, Onondaga, Cayuga, and Seneca), Massachusetts followed the Indian policy of New York, which had a more vital interest in them.

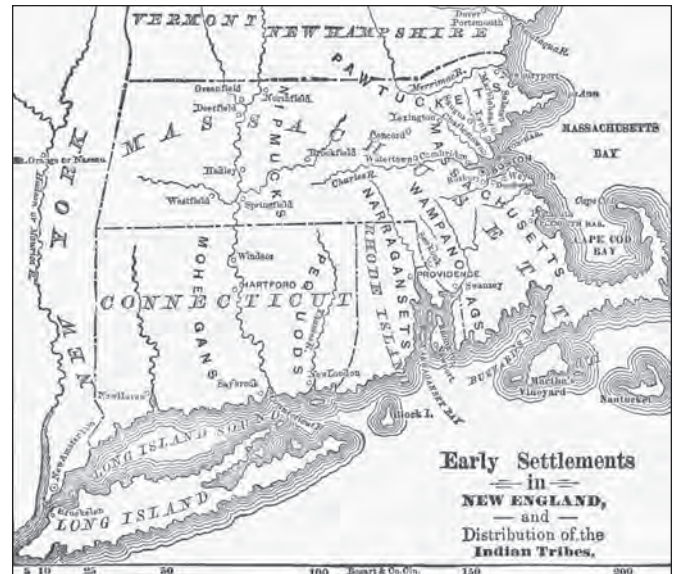
The plantation Indians, who occupied the intermediate position between the tribal and individual Indians, received the most attention from the colonial authorities. In the early seventeenth century, those authorities attempted, through the influence of John Eliot, to establish Indian villages that were to be occupied by Natives who had converted to Christianity. During the 1650s, the Indian villages increased so greatly in number and strength that the General Court decided to improve the village system with specific provi-

sions for self-government. The Indian villages were to choose their own magistrates who would hear and rule in minor cases, civil and criminal. These magistrates were authorized to join together to constitute a higher court comparable to the County Court. One English magistrate was to sit on the higher court in order to consent to the Indian judges' decisions. The Court of Assistants was to hear cases involving capital punishment. By the early 1670s, the progress of the "praying villages" was so remarkable that one of them, Natick, was actually given the title of "English town."

King Philip's War (1675–1676), however, shattered the hope of the praying villages. Immediately after the war, the General Court required all Indians within the colony to be confined to one of the four plantations of Natick, Punkapaug (Stoughton), Hassanimesit (Grafton), or Wamesit (Chelmsford). By 1680 the number of plantations had been reduced to three—Natick, Punkapaug, and Wamesit. After the war, the towns were recognized in terms of the colony's peace and security, and "the welfare, and good education" of the Indians was only a secondary concern. Thus the tighter regulations made the Christian villages more secular and turned them into virtual reservations.

In 1694 the Indians on the plantations were placed under the jurisdiction of the white commissioners, who were authorized to exercise the power of justice of the peace and to act as guardians of the Indians. This law remained in effect until 1746, when it was superseded by another act. The 1746 law provided that in each plantation three colonists would be appointed as guardians, and they, besides their proper powers as the justices of the peace, were authorized to oversee the welfare of the Indians. Altogether, twenty-four white guardians were chosen by the General Court, three each for Natick; Stoughton; Grafton; Yarmouth, Harwich, and Eastham; Mashpee, Barnstable, Sandwich, and Falmouth; Plymouth, Pembroke, and Middleboro; Martha's Vineyard; and Nantucket.

The Massachusetts reservation system began to deteriorate rapidly in the mid-eighteenth century. Apparently the 1758 act, which was to be in effect for only three years, was not renewed. Furthermore, during the 1750s and 1760s the General Court granted a great number of petitions by Indian proprietors to sell portions of their lands to the whites, which accelerated the colonists' penetration of the Indian reservations. Making matters worse, the Indian population was on the wane. Intermarriage with blacks and whites was common, and even some of the Hessian soldiers who had fought for the British in the American Revolution married



This map illustrates early settlements and Indian tribes in Massachusetts and nearby colonies. The plantation Indians received the most attention from the colonial authorities.

into the Mashpee community after the war. Despite these intermarriages, which helped them to sustain their numbers, the Indians were able to retain a strong sense of their Native heritage.

The new Massachusetts state constitution of 1780 transferred the authority of the colonial government to the state government, but this transition did not change the nature of Indian relations. The American Revolution did, however, affect those Indians in Massachusetts who took part in the war. For example, Crispus Attucks of Indian-black ancestry and a runaway slave from Framington, was one of the five Bostonians killed in the Boston Massacre of 1770. In 1775 some of the Stockbridge Indians in western Massachusetts served as Minutemen. Indeed, the Stockbridge Indians fought against the British throughout the war and lost half their men.

Based on John Milton Earle's extensive report on the Indians, in 1869 the Massachusetts legislature formally ended the reservation system throughout the state, declaring all Indians citizens of the Commonwealth. Citizenship and the right to dispose of their land inevitably had a devastating effect on the Indians and their land, the source of their livelihood.

The Indian Reorganization Act of 1934 temporarily renewed interest in the reservation system, but the reservation as originally devised in the seventeenth century has never been revived and has instead been turned into an Indian village, part of the regular township. In 1976 Massachusetts had only one Indian village, Hassanimesco in

Grafton. The village consisted of only 11.9 acres and had only one resident.

See also *American Revolutionary War (1775–1783); Great Britain, Indian Policy of; New York, Indian Policy of; Reservations.*

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BIBLIOGRAPHY

- Conkey, Laura E., Ethel Bolishevain, and Ives Goddard. "Indians of Southern New England and Long Island: Late Period." In *Handbook of North American Indians: Northeast*, edited by Bruce G. Trigger, 15:177–189. Washington, D.C.: Smithsonian Institution, 1978.
- Kawashima, Yasuhide. *Puritan Justice and the Indian: White Man's Law in Massachusetts, 1630–1763*. Middletown, Conn.: Wesleyan University Press, 1986.
- O'Brien, Jean M. *Dispossession by Degree: Indian Land and Identity in Natick, Massachusetts, 1650–1790*. New York: Cambridge University Press, 1997.
- Rosen, Deborah A. *American Indians and State Law: Sovereignty, Race, and Citizenship, 1790–1880*. Lincoln: University of Nebraska Press, 2007.

McCain, John

A Republican senator from Arizona, John McCain (1936–) has been a strong supporter of tribal sovereignty in Washington, D.C. Born in the Panama Canal Zone, McCain followed family tradition, graduating from the U.S. Naval Academy and pursuing a career as a naval aviator. During the Vietnam War (1959–1975), McCain's plane was shot down over the North Vietnamese capital. He was held as a prisoner of war for almost five years and endured torture. Returning to the United States as a decorated veteran, the former aviator was elected to the U.S. House of Representatives in 1982 and to the Senate in 1986. In 1987 he was appointed to the Senate Committee on Indian Affairs and served as chair from 1995–1997 and from 2005–2007. He was the 2008 Republican nominee for president of the United States.

McCain became a leading tribal advocate, often taking positions at odds with his own party. In the Senate he worked closely with Democrat Daniel Inouye of Hawaii to secure passage of a series of pro-Indian laws during the 1980s and 1990s, including the landmark Indian Gaming Regulatory Act of 1988 and the Native American Graves Protection and Repatriation Act of 1990. In 1989 and 1991, the Arizona senator sponsored bills to reform the controversial Federal Acknowledgment Process for unrecognized tribes. He also wrote the Indian Health Care Improvement Act of 2005, sponsored bills to resolve the multibillion-

dollar *Cobell* court proceedings over alleged federal mismanagement of Indian trust accounts, sponsored the Navajo-Hopi Relocation Act of 1996, and passed a 2002 law that secured tribal rights to Colorado River water.

See also *Congressional Committees on Indian Affairs; Gaming; Hopi-Navajo Relations; Inouye, Daniel; Indian Gaming Regulatory Act of 1988; Indian Health and Healthcare; Native American Graves Protection and Repatriation Act of 1990.*

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BIBLIOGRAPHY

- Alexander, Paul. *Man of the People: The Life of John McCain*. Hoboken, N.J.: John Wiley and Sons, 2003.
- McCain, John, and Mark Salter. *Faith of My Fathers: A Family Memoir*. New York: Random House, 1999.

McCaleb, Neal

Neal McCaleb (1935–), a Chickasaw from Oklahoma, served as the assistant secretary of the interior for Indian affairs and head of the Bureau of Indian Affairs from 2001 to 2002, during President George W. Bush's first term in the White House. Before holding federal office, McCaleb served as secretary of transportation in Oklahoma. He also served for eight years in the Oklahoma House of Representatives and was elected Republican floor leader in 1978.

As the top-ranking federal official for Indian affairs, McCaleb ended federal recognition of the Chinook, Duwamish, and Nipmuc tribes. In 2001 he approved a new constitution for the Crow tribe. When McCaleb resigned from his position as assistant interior secretary in 2002, he cited the contentious *Cobell v. Norton* class action lawsuit, in which Native Americans claim that the U.S. government has incorrectly managed Indian trust accounts, as one of the reasons for his departure. Upon leaving office, McCaleb became chair of Oklahomans for Safer Bridges and Roads.

See also *Bureau of Indian Affairs; Bush, George W.; Cobell Litigation.*

Caryn E. Neumann

McCarran Amendment (1952)

The McCarran Amendment, enacted in 1952, provides that consent is given to join the United States as a defendant in any suit (1) for the adjudication of rights to the use of water of a river system or other source, or (2) for the administration of such rights. Through a series of Supreme Court deci-

sions, the McCarran Amendment authorizes state courts to determine Indian tribal reserved rights to water as part of general stream adjudications, and to issue orders enforcing and interpreting those determinations. Indian tribes are bound by these state court decisions and orders.

All western states have procedures to determine all water rights to a stream system, known as general stream adjudications. Indian tribes could be joined in these lawsuits because states have no authority over tribal water rights and because the tribes are immune from suit without their consent. Excluding federal and tribal rights from general stream adjudications, however, undermined the proceedings, because the purpose of such an adjudication is to determine all rights to a stream system.

The McCarran Amendment expressly allowed the United States to be joined in a general stream adjudication. The Supreme Court held in *United States v. District Court for Eagle County* (1971) and *Colorado River Water Conservation District v. United States* (1976) that the federal government could be joined to adjudicate both federal reserved water rights, such as those for national forests, and tribal reserved water rights. In a later case, *Arizona v. San Carlos Apache Tribe* (1983), Indian tribes argued that the McCarran Amendment did not waive tribal sovereign immunity. The Supreme Court agreed that Indian tribes could not be joined in state court general stream adjudications without their consent, but noted that the United States could be joined to adjudicate tribal rights, and that any judgment against the United States as trustee would be binding on the tribes. As a result of that case, Indian tribes may assert their sovereign immunity if they are willing to be fully represented by the federal government. If tribes wish to represent their own interests in general stream adjudications, they must voluntarily waive their immunity by joining the proceedings.

Because tribal reserved rights to water are federal property rights, the federal courts have jurisdiction to hear cases involving those water rights. Nevertheless, in *Colorado River Water Conservation District v. United States* (1976) the Supreme Court determined that federal courts should generally abstain in favor of state court proceedings. The policy embedded in the McCarran Amendment of avoiding piecemeal litigation, the Court ruled, overrode the long-standing policy of resolving Indian rights in federal, not state, courts.

In 1983 the Supreme Court expressly stated in *Arizona v. San Carlos Apache Tribe* that state courts determining tribal rights "have a solemn obligation to follow federal law." Nevertheless, state courts have varied widely in their

approaches to tribal reserved rights. Most state courts recognize some tribal right to groundwater, for example, while one does not. State court interpretations of the purposes of Indian reservations, and consequently of the water reserved for those purposes, vary considerably.

See also *Water Rights*.

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BIBLIOGRAPHY

- Arizona v. San Carlos Apache Tribe*, 463 U.S. 545 (1983).
Colorado River Water Conservation District v. United States, 424 U.S. 800 (1976).
 Feldman, Stephen M. "The Supreme Court's New Sovereign Immunity Doctrine and the McCarran Amendment: Toward Ending State Adjudication of Indian Water Rights." *Harvard Environmental Law Review* 18 (1994): 433–488.
In re General Adjudication of All Rights to Use Water in the Big Horn River System, 753 P.2d 76 (Wyo. 1988).
In re General Adjudication of All Rights to Use Water in the Gila River System and Source, 35 P.3d 68 (Ariz. 2001).
South Delta Water Agency v. United States, 767 F.2d 531 (9th Cir. 1985).
United States v. District Court for Eagle County, 401 U.S. 520 (1971).
Wyoming v. United States, 933 F.Supp. 1030 (D.Wyo. 1996).

McGillivray, Alexander

Alexander McGillivray (1750–1793), a prominent Creek chief and diplomat, is considered by many as one of the most interesting and confounding figures in American Indian history. Born in 1750 to a Creek mother (Sehoy Marchand) and a Scottish trade-entrepreneur father (Lachlan McGillivray) in the Creek town of Little Tallassee on the Coosa River, McGillivray spent most of his youth removed from his mother's clan. He was first educated in Charleston, South Carolina, before moving to Augusta, Georgia, to live with his father and apprentice in trade companies—one of which was the largest importer of slaves in Georgia. He also worked for a period in the British Indian department, which helped him expand his influence through his deft distribution of trade goods. McGillivray's business skills enabled him to become a successful trader, and he acquired considerable wealth and possessions, including several plantations and many slaves. When the American Revolutionary War (1775–1783) began, McGillivray's father returned to Scotland, and Alexander returned to the Creek Nation and became an influential, though self-appointed, chief.

When the state of Georgia seized his property during the American Revolution, McGillivray and many of his followers allied with Great Britain. (The state subsequently com-

pensated McGillivray for the losses.) He personally fought with the British to defend their posts in West Florida. After the war, he supported the attempts of Cherokee leaders Dragging Canoe and Bloody Fellow to drive American settlers off of Indian land and encouraged his Creek followers to do the same.

When the United States secured its independence from Great Britain, the Creek Nation and McGillivray were required to sort out the new regional political reality and forge new trade and military alliances. Spain, with its presence in Florida abutting the Creek Nation, was a constant player in Creek affairs. McGillivray, due to his ability to negotiate with Great Britain, Spain, and the United States, was able to benefit the Creeks—and his own pocketbook—by playing these nations against one another. He also used the rewards and annuities he acquired for the Creeks to strengthen support for his leadership in the Creek Nation. In 1784, for example, McGillivray signed a commercial and military agreement with Spain, which recognized him as the “emperor” of the Creeks and provided the Creeks with trade goods and weapons to use in conflicts with American settlers. Around the same time, he also met with Native leaders from the Ohio Valley and Great Lakes tribes to discuss the creation of a pan-Indian alliance that would work to keep the United States and its settlers from expanding into Indian Territory. While he considered and, to some extent, encouraged the violent overthrow of U.S. authority, McGillivray ultimately used diplomacy and accommodation to try to protect Creek interests.

McGillivray had many supporters and his substantial wealth frequently allowed him to hire Creek warriors to protect his interests. However, he was unable to secure the support of some of the more traditional Creek leaders, who worried about the dangers of his agreements with the United States and Spain. A new social, economic, and political order marked by Christianity, capitalism, and a centralized government was challenging traditional Creek society. McGillivray, a supporter of this new order, therefore symbolized a transformation that divided Creek sympathies—a division that ultimately contributed to the outbreak of the Creek Civil War (1813–1814).

In 1790, as Spanish power in Florida was waning, McGillivray orchestrated an agreement and alliance with the United States that required the cession of a large tract of Creek land in exchange for annuities and federal protection against any potential trespasses or attacks by Georgia. In this agreement, known as the Treaty of New York, the United

States also agreed to provide the Creeks with tools, equipment, and advice that would help them make the transition to farming and individual property ownership in the Anglo-American fashion. McGillivray was provided with a salary and bestowed with the rank of brigadier general in the U.S. Army, further augmenting his political power. Two years later, he switched his official allegiance back to Spain for a higher salary. By this point, he had held leadership titles with the Creek Nation, Great Britain, Spain, and the United States. All of his political machinations, his admirers argue, were to benefit the Creek people.

McGillivray is an especially important historical figure as a result of his elevated position of power and the substantial written record he left behind. But, more importantly, he provides a window into an Indian tribe conflicted between the concepts of tradition and “civilization.” McGillivray was one of many individuals who simultaneously benefited from, and yet were psychologically divided by, a political and social catastrophe they helped create but could not completely control.

See also *Civilization Program; Creek Civil War (1813–1814); Dragging Canoe; Spain, Indian Policy of; U.S. Indian Policy: Congress and the Executive, 1775–1803.*

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BIBLIOGRAPHY

- Caughy, John W. *McGillivray of the Creeks*. 1939, Reprint, Columbia: University of South Carolina Press, 2007.
- Green, Michael D. “Alexander McGillivray.” In *American Indian Leaders: Studies in Diversity*, edited by R. David Edmunds, 41–63. Lincoln: University of Nebraska Press, 1980.
- Saunt, Claudio. *A New Order of Things: Property, Power, and the Transformation of the Creek Indians, 1733–1816*. New York: Cambridge University Press, 2003.

McGillicuddy, Valentine T.

Known to the Lakotas as the Friend of Crazy Horse and Wasicu Wakan (White Medicine Man), Valentine Trant McGillicuddy (1849–1939) had a noted career in the U.S. Indian Service.

McGillicuddy, who was born to Irish immigrants in Racine, Wisconsin, attended the University of Michigan and the Detroit School of Medicine. After working as physician in Detroit, he left the medical practice for health reasons in 1871 and began work as an assistant engineer for a group surveying Lake Michigan. In 1874 he worked as a topographer for the British-American Boundary Survey. The next year, he became the chief engineer in the survey of the Black Hills.

In 1876 McGillicuddy returned to medicine as a contract surgeon with Gen. George Crook's U.S. Cavalry. While serving as the post surgeon at Fort Robinson, Nebraska, McGillicuddy treated many Indians. He became a close friend of Crazy Horse and tended to the mortally wounded Lakota leader in September 1877. When McGillicuddy complained about the treatment of Indians to E. A. Hayt, the commissioner of Indian affairs, Hayt appointed him agent at the Pine Ridge reservation, where he served for seven years (1879–1886).

Like many of his time, McGillicuddy was convinced that the survival of Indians required their assimilation. Thus he endeavored to transform the Pine Ridge Lakotas into farmers and ranchers. On his watch, he built telegraph lines, schools, and sawmills and established an Indian police force and court system. However, his critics, including the famous chief Red Cloud, condemned the way he ruled Pine Ridge. Undermined by criticism and brought down by the reemergence of the spoils system in the selection of agents, McGillicuddy was forced from his position in 1886.

After leaving the Indian Service, McGillicuddy held a variety of positions, including as South Dakota's territorial surgeon and dean at the South Dakota School of Mines. When the Ghost Dance swept through Pine Ridge in 1890, McGillicuddy, because of his intimate knowledge of Lakota culture, was sent by the governor of South Dakota to assess the situation. McGillicuddy recommended that the Lakotas be allowed to dance. Instead, at least 150 Lakotas, and likely many more, were massacred by the U.S. Seventh Cavalry at Wounded Knee on December 29, 1890.

McGillicuddy eventually retired in Berkeley, California, and died on June 6, 1939.

See also *Crazy Horse; Indian Police Forces; Red Cloud; Wounded Knee Massacre (1890); Wovoka.*

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BIBLIOGRAPHY

- Hagan, William T. *Indian Police and Judges: Experiments in Acculturation and Control*. New Haven, Conn.: Yale University Press, 1966.
- McGillicuddy, Julia B. *Blood on the Moon: Valentine McGillicuddy and the Sioux*. Lincoln: University of Nebraska Press, 1990.

McIntosh, William

Creek leader William McIntosh (1775–1825) was the son of Captain William McIntosh, a Scotsman who fought for the British during the American Revolutionary War (1775–

1783), and a prominent Creek woman named Senoia. The younger McIntosh became a successful entrepreneur, owning an inn, two plantations, and seventy-two slaves. He also rose to the politically influential position of head warrior of Coweta, the central war village among the Creek lower towns.

McIntosh gained prominence during the Creek Civil War (1813–1814), during which the nativist Red Stick Creeks rebelled against U.S. influence over the leaders of the Creek Council. During the war, McIntosh split with the Red Sticks and cooperated with U.S. forces to secure the victory in 1814. General Andrew Jackson made McIntosh a brigadier general during the conflict. McIntosh also allied himself with American forces during the First Seminole War (1817–1818).

McIntosh was present in 1811 at Broken Arrow in the Creek Nation when the Creeks resolved to never again cede land to the United States and instituted a death sentence against any person who sold land without the approval of the Creek National Council. After destroying the Red Sticks at the Battle of Horseshoe Bend in 1814, Andrew Jackson demanded that the Creeks cede twenty-two million acres of their territory. McIntosh was one of the Creek leaders who agreed to the treaty. He also participated in the cession of Creek lands in 1818 and 1821. By 1824 McIntosh and his supporters had surrendered fifteen million acres of Creek territory to the United States.

In 1825 McIntosh and eight other Creek chiefs signed the Treaty of Indian Springs, relinquishing all the tribe's land in Georgia in exchange for \$400,000. The Creek National Council sentenced McIntosh to death for his participation in the cessions. George Troup, the governor of Georgia, pledged to protect McIntosh and his possessions. Despite Troup's promise, on May 1, 1825, a group of Creeks shot and killed McIntosh and set fire to his plantation as punishment for ceding Creek land. In 1826 the Creeks reaffirmed the cession of their lands in Georgia in the Treaty of Washington. In the 1830s they surrendered the remainder of their lands in the Southeast and removed to the Indian Territory west of Arkansas.

See also *Creek Civil War; First Seminole War; Indian Removal Act of 1830; Jackson, Andrew; Fort Jackson (1814), Treaty of; Removal.*

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BIBLIOGRAPHY

- Green, Michael D. *The Politics of Indian Removal: Creek Government and Society in Crisis*. Lincoln: University of Nebraska Press, 1985.
- Griffith, Benjamin W., Jr. *McIntosh and Weatherford: Creek Indian Leaders*. Tuscaloosa: University of Alabama Press, 1998.

McKenney, Thomas L.

Thomas L. McKenney (1785–1859) has been called “the father of the Indian service” by biographer Herman Viola in his essay for *The Commissioners of Indian Affairs, 1824–1977* (1979). McKenney administered Indian affairs as superintendent of Indian trade (1816–1822) and as the first head of the Office of Indian Affairs (1824–1830). During this time he was behind the Indian Civilization Act of 1819 and a major influence behind the Removal Act of 1830. Known by Indians as White Eagle, some saw him as a self-seeking opportunist who used Indian affairs as a springboard for an ambitious career, others as a genuine humanitarian and reformer of his time. Regardless, he was a significant figure in the history of government–Indian affairs and the development of U. S. Indian policy.

Born March 21, 1785, in Somerset County, Maryland, McKenney had a Quaker upbringing and attended the local Washington College before assuming most of his father’s business affairs running a bank and store. He served in the War of 1812 (1812–1814) in various units, exiting with the rank of major. After establishing a small business partnership in Washington, D.C., he sought public office, and in 1816 John C. Calhoun, the secretary of war, appointed McKenney as superintendent of Indian trade.

As superintendent McKenney was responsible for handling claims by and against Indians for the government. He brought to the position a keen interest in Indian affairs and a belief that Indians could be “civilized” through education and a cultural transition to the ideas of private property ownership, Anglo–American agriculture, and Christianity. His correspondence displays a constant (and often very vocal) positivism that Indians could, through these endeavours, be assimilated into the wider American population. He actively encouraged missionaries to work with Indian communities and planned for a school system. After his initial efforts for the latter failed, he succeeded in creating a nationwide campaign based on the concept that missionary groups and churches would advocate for and provide Indian schooling. His campaign culminated in Congress’s passage of the Indian Civilization Act of 1819, a law providing annual appropriations for education and the civilization programs.

Between the years 1816–1822, McKenney attempted to forestall the end of the factory system that he operated for the government. The United States had used the system to create a monopoly over the fur trade by maintaining a num-

ber of stores that traded goods in exchange for furs with local Indians. McKenney had wanted to expand the system as it encouraged trade, interaction, and settlement. Instead, lobbyists for the fur trade, including John Jacob Astor’s American Fur Company, persuaded Congress to end the factory system in 1824.

During his time in office, McKenney established a friendship with Secretary of War John C. Calhoun (the Department of War was responsible for Indian affairs), an association that impacted McKenney both positively and negatively. Calhoun’s position helped propel McKenney forward in the government, but the secretary was so controversial that the relationship also hindered McKenney’s career at certain critical junctures. Due to his opposition to the termination of the factory system, McKenney suffered under intense politically driven public scrutiny. His reputation damaged, his handling of government trade was investigated by Congress, and he left office in 1822.

McKenney then established the semiweekly *Washington Republican and Congressional Examiner*, triggering a partisan newspaper war in Washington. He used his editorial position with the newspaper to discuss a range of issues, including his support for the American Colonization Society, a group that wanted to repatriate black slaves to Africa, and a number of other humanitarian concerns.

When he resigned as editor in June 1823 owing to lack of funds, McKenney’s career was rescued by Calhoun in the War Department. Calhoun wanted to shift the department’s wide-ranging Indian duties into a new Office of Indian Affairs (the precursor to the Bureau of Indian Affairs), and McKenney was appointed to the office’s lead post. In this role, McKenney frequently entertained Indian delegations to Washington, tried to regulate the Indian trade with bonding and licensing requirements, attempted to rein in the sale of alcohol to the tribes, and continued to push for education and assimilation. During his service under President James Monroe, McKenney began to believe that the removal of the tribes, a policy pressed for by Andrew Jackson, Calhoun, and a host of southern politicians, would offer critical protection for tribes and provide extra time for them to prepare for assimilation. Like Monroe, he envisaged a voluntary process that was promoted and protected by the government.

In 1828 Andrew Jackson was elected president of the United States and maintained McKenney as head of the Indian office for a brief period. Removal generated a substantial amount of opposition from churches and missionary societies in the North, and McKenney, well respected with-

in many church circles, provided an effective proremoval voice for an administration seeking to justify the policy. The Indian Board for the Emigration, Preservation, and Improvement of the Aborigines of America was established July 22, 1829, with the backing of the Dutch Reform Church. As chief architect of the board, McKenney's purpose was to promote the security, preservation, and happiness of Indians through a process of removal that was portrayed by relocation advocates as entirely benevolent. As such, the short-lived board provided an early comprehensive articulation of, and justification for, governmental removal policy. Among McKenney's arguments was the notion that many southern-based Indians were living in such appalling conditions that movement west would be practically beneficial, but that they were being held back by a number of politicized chiefs. He consistently argued that emigration would be voluntary and ultimately prove to be the Indians' only salvation, given the alternatives.

The board struggled due to organizational and financial issues, but McKenney also claimed that he grew suspicious of President Jackson's approach to removal. Jackson, he argued, was gravitating toward a position where removal would be compulsory and operate through coercion. The board collapsed when McKenney was subsequently removed from office in 1830.

McKenney published two books that reflected his interest in Indian history and culture, which are regarded as important proto-ethnographic works. His *Sketches of a Tour of the Lakes* (1827) is an account of his frontier trip that includes a description of the Chippewas (Anishinabes) and a record of the treaty negotiations with them. His *History of the Indian Tribes of North America* was published in 1844 with the collaboration of artist James Hall. McKenney published his memoirs in 1846, which amounted to a retrospective defense and justification of his actions while in office. He is also known for having collected a substantial number of Indian artifacts and art throughout his travels and from Indian delegations he received in Washington. He organized the Indian Portrait Gallery in the capital and commissioned Charles Bird King to paint Native leaders when they came to Washington.

McKenney remained relatively active in anti-Democratic politics after he left the Indian office and continued to support the interests of Native Americans. He often lectured on the subject of Indians and U. S. Indian policy and usually donated a portion of his honoraria to the tribes. He died in poverty in Brooklyn, New York, on February 20, 1859.

See also *American Fur Company*; *Bureau of Indian Affairs*; *Calhoun, John C.*; *Civilization Program*; *Factory System*; *Indian Removal Act (1830)*; *Jackson, Andrew*; *Removal*.

Sam Hitchmough

BIBLIOGRAPHY

- McKenney, Thomas L., and James Hall. *History of the Indian Tribes of North America*. Philadelphia: J. T. Bowen, 1848–1850.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Viola, Herman J. "Thomas L. McKenney." In *The Commissioners of Indian Affairs, 1824–1977*, edited by Robert M. Kvasnicka and Herman J. Viola, 1–7. Lincoln: University of Nebraska Press, 1979.
- . *Thomas L. McKenney: Architect of America's Early Indian Policy, 1816–1830*. Chicago, Ill.: Swallow Press, 1974.

McLoughlin, John

A native of Quebec, John McLoughlin (1784–1857) rose through the Northwest Company (NWC) and the Hudson's Bay Company (HBC) to the position of chief factor for the HBC's vast Columbia Department. Twice married to women of Native ancestry, he left the HBC in 1846 and became a businessman and American citizen.

McLoughlin joined the NWC in 1803 as surgeon and apprentice clerk and honed his skill as a fur trader in remote northern posts, working intimately with local Native communities. After the company merged with the HBC in 1821, McLoughlin joined the HBC and soon advanced to manage its interests west of the Rocky Mountains from Alaska to California.

From Fort Vancouver (in present-day Vancouver, Washington), his departmental headquarters, McLoughlin implemented a policy toward Native peoples that balanced HBC mandates and on-the-ground realities. He applied longstanding procedures toward Indians that directly ensured the HBC's financial success, including promoting fairness, supporting peaceful intertribal relations, and encouraging Native hunting and trapping. In addition, he labored to foster benevolence toward Indians, reduce alcohol distribution to tribal members, and restructure Native morals through education and Christianization. McLoughlin also provided medical care to Native peoples, occasionally ensured education for orphaned Native children, and supported marriages between company employees and Native women, which he saw as strategic business alliances. Although McLoughlin was primarily and properly noted for his effective Indian diplomacy, he and the HBC were not above using force to punish Natives they considered to be troublemakers.

McLoughlin retired from his position at the HBC in 1846 and moved south to Oregon City. He died in 1857.

See also *Canada, Indian Policy of; Fur Trade; Great Britain, Indian Policy of.*

Gregory Paynter Shine

BIBLIOGRAPHY

McLoughlin, John. *The Letters of John McLoughlin, from Fort Vancouver to the Governor and Committee: First Series, 1825–1838*. Edited by E. E. Rich. Toronto: Champlain Society, 1941.

———. *The Letters of John McLoughlin, from Fort Vancouver to the Governor and Committee: Second Series, 1839–1844*. Edited by E. E. Rich. Toronto: Champlain Society, 1943.

———. *The Letters of John McLoughlin, from Fort Vancouver to the Governor and Committee: Second Series, 1844–1846*. Edited by E. E. Rich. Toronto: Champlain Society, 1944.

Morrison, Dorothy N. *Outpost: John McLoughlin and the Far Northwest*. Portland: Oregon Historical Society Press, 1999.

McNickle, D'Arcy

William D'Arcy McNickle (1904–1977; Flathead/Salish/Kootenai) was a scholar, novelist, historian, professor, political organizer, and activist who helped pave the way for tribal self-determination. He grew up on the Flathead reservation in Montana. McNickle attended the University of Montana, Oxford University, and the University of Grenoble.

McNickle began working at the Office of Indian Affairs in 1936. Under the direction of John Collier, the commissioner of Indian affairs, McNickle used his training in anthropology to shape policies at the office during the “Indian New Deal.” He served as a field representative for the commissioner and as assistant to the director of tribal relations before taking on that position himself. During his service he advised tribes on a variety of issues, including how to develop constitutions under the 1934 Indian Reorganization Act.

McNickle was one of the founders of the National Congress of American Indians (NCAI) in 1944, an organization created to preserve Native cultural values, protect Indian personal and property rights, and influence federal Indian policy. Due to the work of the NCAI, Congress passed the Indian Claims Commission Act in 1946 to handle Native property claims. The organization also opposed the government's adoption of the termination policy designed to end federal programs for Indian tribes.

Frustrated by termination, McNickle left the Indian office in 1952. Around that same time, he founded American

Indian Development, Inc., and started working in the fields of community organizing and leadership training. McNickle was a firm believer in developing the talents and abilities of American Indians and used the organization to nurture the development of a new generation of Indian leaders. Many of the students in his summer workshops became tribal and national leaders.

McNickle drafted many of the policy recommendations in the “Declaration of Indian Purpose” that came out of the American Indian Chicago Conference in 1961. He served on the U.S. Civil Rights Commission and sat on the boards of the Association on American Indian Affairs, the American Indian Institute, the Institute for the Development of Indian Law, and the Advisory Council of the National Indian Youth Council. He also served as founding director and advisory board member for the Newberry Library's Center for the History of the American Indian, which was later renamed in his honor.

See also *American Indian Chicago Conference; Collier, John; Indian New Deal; Indian Reorganization Act (1934); National Congress of American Indians; Self-Determination.*

Sterling Fluharty

BIBLIOGRAPHY

Ortiz, Alfonso. “D'Arcy McNickle, 1904–1977.” *American Anthropologist*, vol. 81 (September 1979): 632–636.

Parker, Dorothy R. *Singing an Indian Song: A Biography of D'Arcy McNickle*. Lincoln: University of Nebraska Press, 1992.

Purdy, John Lloyd, ed. *The Legacy of D'Arcy McNickle: Writer, Historian, Activist*. Norman: University of Oklahoma Press, 1996.

Meacham, Alfred B.

Born in Indiana, Methodist minister Alfred B. Meacham (1826–1882) traveled west during the Gold Rush and became involved in Indian affairs in Oregon and California. Meacham's appointment as the superintendent of Indian affairs for Oregon in 1869 narrowly precluded Ulysses S. Grant's Peace Policy that emerged in 1870. Under the policy the government transferred control of the Indian agencies from the military to church organizations.

Meacham's work in Oregon brought him into contact with the Modocs, and he was part of the Peace Commission that Grant established to end the Modoc War (1872–1873). The unfortunate events that unfolded in April 1873 brought the attention of the United States, both the government and its citizens, to Northern California when Kintpuash killed General Edward Canby. Modoc fighters severely wounded

Meacham; they might have killed him had it not been for Winema, a Modoc woman who interpreted for the tribe, who saved his life by shouting at the Modocs that the soldiers were coming.

Meacham continued his involvement in Native American affairs by utilizing his experiences in the war. He set up a traveling lecture that included Winema, her husband Frank Riddle, and their son Jeff. He lobbied Congress for several years and in 1890 Congress passed special legislation granting Winema a monthly \$25 pension until she died.

Meacham died in Indiana in February 1882, leaving behind a wife and son in Oregon. His obituary in the *Evening Star* listed the cause of death as apoplexy.

See also *Kintpuash (Captain Jack); Modoc War; Winema.*

Rebecca Bales

BIBLIOGRAPHY

- Meacham, Alfred B. *Wi-Ne-Ma: The Woman Chief, and Her People*. Hartford, Conn.: American Publishing Company, 1876.
- Murray, Keith. *The Modocs and Their War*. Norman: University of Oklahoma Press, 1959.
- Quinn, Arthur. *Hell with the Fire Out: A History of the Modoc War*. London: Faber & Faber, 1997.

Means, Russell

Native American activist, organizer, politician, writer, recording artist, and actor Russell Means (1939–) was born on the Pine Ridge reservation in South Dakota (near the Black Hills) to Harold and Theodora (Feather) Means. Harold, a mixed blood Oglala/Sioux and Theodora, a full-blood Yankton Sioux, were both educated in Indian boarding schools. In 1942 the Means family moved to the San Francisco Bay Area, and Means attended public schools in Vallejo, California. At the predominantly white San Leandro High School, Means experienced ethnic taunting that may have spurred him to his future role as an activist. After graduating in 1958, Means struggled with substance abuse, drifted in and out of various jobs, and attended more than four different colleges throughout the 1960s. His interest in Native affairs grew, influenced not only by personal circumstance but also by the activism of the period. After leaving a position on the tribal council for the Rosebud reservation in South Dakota, in 1969 he moved to Cleveland, Ohio, and became the director of the government-funded American Indian Center.

It was in Cleveland that Means met Dennis Banks, cofounder of the American Indian Movement (AIM), which

Banks created with George Mitchell in Minneapolis, Minnesota. AIM was a Native American activist organization formed to combat unemployment, poverty, and police brutality, and to promote Native American values through “survival schools.” Means gained both popularity and notoriety through his involvement with AIM. Inspired by Banks, Means eventually established a second chapter of the organization in Cleveland.

From November 1969 to June 1971, California’s Alcatraz Island was occupied by Mohawk Richard Oakes and a group of Native activists (mostly college students) who sought to reclaim the island and turn it into an Indian cultural center. The nineteen-month-long siege prompted Means and other AIM leaders to focus on dramatizing the plight of Native Americans through confrontation.

Means became the first national director of AIM in 1970 and led the group in a series of bold demonstrations throughout the decade. In 1970 he led a group of Native Americans to confront costumed Pilgrims in Plymouth, Massachusetts, at a Thanksgiving Day parade. He also led a symbolic demonstration at Mount Rushmore concerning grievances related to Lakota claims of the Black Hills. In 1972 Means filed a lawsuit against the Cleveland Indians baseball team for using Chief Wahoo as a mascot, claiming that the use of such a symbol was demeaning to Native Americans. This eventually led to his resignation as director of the Cleveland Center. In 1972 Means led 1,300 Native Americans in Gordon, Nebraska, to protest the death of Raymond Yellow Thunder (this eventually culminated in the indictment of two local white men for manslaughter). That same year he was also at the forefront of the siege and occupation of the Bureau of Indian Affairs offices in Washington, D.C.

Means played a pivotal role in the ten-week-long siege and occupation of Wounded Knee by two hundred armed Native Americans in 1973. (Wounded Knee was the location of the 1890 massacre of more than three hundred Native American women and children by the U.S. military.) During the occupation, Means served as primary negotiator between the U.S. government and the Native Americans and refused the government’s demands of unconditional surrender. When he attempted to return from Washington, D.C., to Wounded Knee after a round of negotiations, he was arrested and the siege was eventually ended.

The activism of AIM members and other Indians during this period directly influenced changes in Native American policy and law. Their actions made non-Indians more aware

of the issues concerning American Indians and persuaded U.S. policy makers to support legislation such as the Indian Self Determination and Education Assistance Act and the Indian Financing Act that expanded the sovereign powers and economic autonomy of the tribes.

Russell Means' career has continued to be controversial following his split with AIM in the 1980s. In 1986 he visited Nicaragua in an attempt to show support for the Miskito Indians allied with the U.S.-funded Contra guerilla fighters. In 1988 he ran for president as a candidate for the Libertarian Party. He began his acting career in 1992 in the film adaptation of James Fenimore Cooper's *The Last of the Mohicans* and subsequently appeared in several other movies, including Oliver Stone's *Natural Born Killers*, and television shows such as *Touched by an Angel* and *Walker, Texas Ranger*. In 2001 he participated in the Washington, D.C., Anti-War Network's protest. He has also strongly denounced the use of the term "Native American," preferring "American Indian." Means published an autobiography in 1995 entitled *Where White Men Fear to Tread*.

See also *Alcatraz Island, Seizure of* (1969); *American Indian Movement (AIM)*; Banks, Dennis; *Indian Financing Act* (1974); *Indian Rights Movements*; *Indian Self-Determination and Education Assistance Act* (1975); *Mascots*; *Wounded Knee* (1973), *Occupation of*.

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BIBLIOGRAPHY

- Chaat Smith, Paul, and Robert Allen Warrior. *Like a Hurricane: The Indian Movement from Alcatraz to Wounded Knee*. New York: New Press, 1996.
- Johnson, Troy R., Joane Nagel, and Duane Champagne, eds. *American Indian Activism: Alcatraz to the Longest Walk*. Chicago: University of Illinois Press, 1997.
- Means, Russell, and Marvin J. Wolf. *Where White Men Fear to Tread: The Autobiography of Russell Means*. New York: St. Martin's Press, 1996.
- Sayer, John William. *Ghost Dancing the Law: The Wounded Knee Trials*. Cambridge, Mass.: Harvard University Press, 2000.

Medicine Lodge Creek (1867), Treaty of

Negotiations for the Treaty of Medicine Lodge Creek were held October 12–29, 1867, in southern Kansas, seventy miles from Wichita. The negotiations surrounded a set of three treaties (although they are commonly referred to as the Treaty of Medicine Lodge Creek): the first with the Kiowas and Comanches, the second with the Kiowas and Comanches (it confederated the two tribes with the Apaches), and third with the Cheyennes and Arapahos. The

United States sought through the treaties to establish a final peace in the region and hoped that moving the signatory tribes to reservations would prepare them for assimilation.

In the treaties, the tribes agreed to live in peace, surrender their "bad men," and refrain from attacking settlers or their property and interfering with the construction of any railroad. The tribes also relinquished substantial tracts of land in return for a reservation in the western portion of the Indian Territory (now Oklahoma). They retained hunting rights south of the Arkansas River as long as there were enough buffalo to justify the hunt. For its part, the United States promised to provide an Indian agent, physician, carpenter, blacksmith, farmer, miller, engineer, and school teacher (the treaties required Indian children to attend school), as well as the buildings to house them and seeds and implements so the Indians could learn to farm. The government also promised to provide annuities for thirty years.

The Treaty of Medicine Lodge Creek opened up the southern and central plains of the United States to railroad construction and American settlement. After a period of ongoing conflict between the resident Indian tribes and the United States, the Indians settled down on their reservations and began the process of acculturation.

See also *Assimilation and Acculturation*; *Black Kettle* (Motavato); *Indian Title*; *Lone Wolf v. Hitchcock* (1903); *Satanta*.

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BIBLIOGRAPHY

- Berthong, Donald J. *The Southern Cheyennes*. Norman: University of Oklahoma Press, 1963.
- Clark, Blue. *Lone Wolf v. Hitchcock: Treaty Rights and Indian Law at the End of the Nineteenth Century*. Lincoln: University of Nebraska Press, 1999.
- Jones, Douglas C. *The Treaty of Medicine Lodge: The Story of the Great Council as Told by Eyewitnesses*. Norman: University of Oklahoma Press, 1966.

Meigs, Return J.

Return Jonathan Meigs (1740–1823) gained renown as a Revolutionary War officer and federal Indian agent.

Meigs spent the American Revolution as a respected officer in the Continental Army. In 1788 he moved to Ohio to work as a surveyor. There, he founded the town of Marietta on the Ohio River and later served as a commissary of clothing for the army under Gen. Anthony Wayne, as it prepared for the Battle of Fallen Timbers. In 1801, after his appointment by President Thomas Jefferson, Meigs estab-

lished a combined War Department and Indian agency at Southwest Point (now Kingston), Tennessee. He spent most of his tenure at Hiwassee in the Cherokee Nation.

As an Indian agent, Meigs distributed annuities, surveyed new borders, advised on the establishment of a republican government for the Cherokees, provided medical aid, and arbitrated disputes among the Indians and with the whites. Generally, he acted as a liaison between the white and Indian governments and attempted to implement the civilization program among the Cherokees. As a chief negotiator for treaties with the Cherokees, Chickasaws, and Creeks, he enabled the federal and state governments to obtain nine Indian land cessions. He also expelled trespassing whites from Indian lands. Well-respected by Indians, Meigs was called the “White Path” by the Cherokees. Indeed, during the Creek Civil War of 1813–1814, he persuaded the Lower Creeks and Cherokees to side with the United States.

Meigs died of pneumonia on January 28, 1823.

See also *Civilization Program; Creek Civil War (1813–1814); Indian Agents.*

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BIBLIOGRAPHY

Malone, Henry T. “Return Jonathan Meigs: Indian Agent Extraordinary.” *East Tennessee Historical Society Publications* 28, no. 1 (1956): 3–22.

McLoughlin, William G. *Cherokee Renaissance in the New Republic*. Princeton, N.J.: Princeton University Press, 1986.

Menominee Tribe v. United States (1968)

In *Menominee Tribe v. United States* (1968), the Supreme Court held that Congress had not abrogated the tribe’s treaty rights to hunt and fish when it “terminated” the tribe in the 1950s. Even though the tribe and the federal government were on opposing sides of the case, they agreed that the tribe’s treaty rights remained intact. Only the state of Wisconsin as amicus curiae (friend of the court) argued that the rights had been abrogated.

In 1854 the Menominees and the federal government entered into the Treaty of Wolf River. In that treaty, the tribe ceded much of its land in exchange for a reservation in an area stocked with game and fish. The reservation was established for the express purpose of allowing the Indians to maintain their means of sustenance and way of life. In 1954, however, Congress passed the Menominee Termination Act,

intended to disband the tribal government and transfer all tribal assets into a corporation owned by the tribal members. The Termination Act also provided that the laws of Wisconsin would apply to tribal members. Thereafter, the state began to enforce its hunting and fishing laws against tribal members, and the Wisconsin Supreme Court upheld the convictions of tribal members for violating those state laws. The Menominees then filed suit in the federal Court of Claims, asking for monetary compensation for the loss of their rights. But the court held that no compensation was due because the treaty rights survived intact, and the U.S. Supreme Court agreed.

In an opinion written by Justice William O. Douglas, the Court noted that the Menominee Termination Act said nothing about the tribe’s treaty rights. Applying the canon of construction, which states that ambiguities in treaties must be interpreted to the benefit of the Indians, the Court held that Congress could not have intended to abrogate the treaty rights by silence. Moreover, the Court noted that from 1954, when the Termination Act was passed, until 1961, when the tribe was actually terminated, the Menominees were subject to Public Law 280, which gave states jurisdiction over Indians but exempted treaty rights to hunt and fish. Reading the Termination Act and Public Law 280 together, the Court ruled that the act ended federal supervision of the tribe, but not the tribe’s treaty rights. Although Congress could abrogate treaty rights, the Court said, to do so Congress would have to clearly state its intent.

The *Menominee Tribe* decision is important in three ways. First, the Court’s narrow interpretation of the Menominee Termination Act was a harbinger of the end of the termination era. By 1968, when the case was decided, Congress had largely abandoned its termination policy, and in 1973 the Menominees became the first terminated tribe to be restored to federal recognition. Second, as one of the first decisions rejecting a state’s attempt to regulate tribal hunting and fishing, the case revitalized the hope of preserving Indian treaty rights nationwide. Third, the Court held Congress to the standard of making its intent to abrogate treaty rights explicitly and abundantly clear. *Menominee Tribe* thus helped pave the way for successful Indian treaty rights litigation in the 1970s.

See also *Fishing, Hunting, and Gathering Rights; Public Law 280; Termination and Restoration; Treaty Interpretation: Judicial Rules and Canons of Construction.*

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BIBLIOGRAPHY

- Frickey, Philip P. "Congressional Intent, Practical Reasoning, and the Dynamic Nature of Federal Indian Law." *California Law Review* 78 (October 1990): 1137–1240.
- Menominee Tribe of Indians v. United States*, 391 U.S. 404 (1968).
- Wilkins, David E., and K. Tsianina Lomawaima. *Uneven Ground: American Indian Sovereignty and Federal Law*. Norman: University of Oklahoma Press, 2001.

Meriam Report

The 1928 *Meriam Report* was a comprehensive study of U.S. federal Indian policy that detailed the failure of numerous programs and called for significant reforms, many of which were later implemented in President Franklin D. Roosevelt's Indian New Deal.

In March 1923 Hubert Work became secretary of the interior, replacing Albert B. Fall, who had resigned due to the Teapot Dome scandal. With the Interior Department in disarray, Work wanted to rehabilitate the agency's image. He sought advice from outsiders on a number of issues, including Indian affairs. In 1923 Work established the Advisory Council on Indian Affairs, generally known as the Committee of One Hundred. This committee met only briefly in December 1923 to discuss the problems facing Native Americans and the government's handling of those concerns. The committee accomplished little, but the problems they identified convinced Work to commission the independent study that became the *Meriam Report*.

Work commissioned W. F. Willoughby, the director of the Institute for Government Research, to conduct this investigation. Willoughby received a grant from John D. Rockefeller to fund the study and selected Lewis Meriam, a social scientist with two law degrees, to lead it. A Harvard graduate, Meriam was a permanent staff member of the Institute for Government Research with a great deal of experience in studying the problems of bureaucratic administration. He selected a staff of nine experts in various fields—health, education, law, economics, agriculture, family life, Indian history, and the situation of Indians in urban communities. Henry Roe Cloud, a member of the Ho-Chunk tribe, Yale graduate, and head of the American Indian Institute, served as an Indian adviser to the staff.

Beginning in 1926 Meriam's staff spent a month in preparation in Washington, D.C., and then seven months investigating in the field. They visited over ninety reservations, Indian agencies, and other governmental entities. They returned to Washington to prepare their final report, which was published by the Johns Hopkins University Press in

1928 as *The Problem of Indian Administration*, although it is commonly referred to simply as the *Meriam Report*.

The *Meriam Report* described the deplorable conditions on the reservations in shocking detail. Alarming high mortality rates were documented at all ages; generally the Indian mortality rate was twice that of white Americans. Indians also suffered disproportionately high rates of certain diseases, most commonly measles and respiratory ailments. Per capita funding for Indian health care amounted to only about 50 cents per year, and the report concluded that virtually every effort undertaken by the government to address health concerns was substandard. The report also documented the stark poverty in which most reservation Indians lived; nearly half survived on a per capita income of \$100–200 per year, when the national average was approximately \$1,350.

The study also gave considerable attention to the problems of urban Indians who had left the reservations. The investigators found government Indian schools with run-down facilities and students crowded into unsanitary dormitories. The government spent only 11 cents per student per day feeding the students in these schools, and the students' diets rarely included milk or fresh vegetables. Investigators concluded that students in Indian schools did too much labor, with little distinction made between actual vocational training and mere maintenance work. In addition, the teachers and other key staff hired for Indian schools often failed to meet the standards required at typical public schools. Meriam and his staff called for the government to abandon the concept of taking Indian students out of their homes and tribal environments.

The *Meriam Report* concluded that the allotment policy and the push for rapid assimilation were failures and in fact were major causes of many existing problems for Native Americans. The researchers recommended an end to both programs and offered as an alternative to rapid assimilation the hope that Indians could be "fitted to live within the dominant society without being obliterated by it."

The report urged the incorporation of tribal governments into the federal policy-making process, with more decisions that affected Natives being made by the tribes. It also noted that the government's goal of educating and "civilizing" the Indians would never succeed among tribes who had legitimate, unsettled claims against the government for past injustices. The report called for canceling many of the debts that tribes had incurred under previous government programs and included a recommendation for a program to promote the marketing of Indian arts and crafts.

Many reformers who had feared a cover-up of problems in the Office of Indian Affairs (OIA) were pleasantly surprised at the intensity of the report's criticism of government policies. Some improvements in funding for Indian health and education programs began almost immediately after the report was published. Steps to implement other reforms were an important part of OIA commissioner John Collier's Indian New Deal in the 1930s, most significantly the ending of allotment, the scaling back of assimilation efforts, and the reestablishment of many tribal governments under the Indian Reorganization Act. Collier also created the Indian Arts and Crafts Board. Congress cancelled the outstanding debts from irrigation programs on reservation lands in 1932, and in 1946 it created the Indian Claims Commission to address outstanding claims that tribes held against the federal government.

The *Meriam Report* was the most comprehensive examination of the problems facing the American Indians that had been undertaken to that time, and it laid the foundation for many reforms enacted in the 1930s and after World War II (1939–1945).

See also *Cloud, Henry Roe; Collier, John; Fall, Albert B.; Indian Claims Commission Act; Indian Health and Healthcare; Indian New Deal; Indian Reorganization Act of 1934; U.S. Indian Policy: Congress and the Executive, 1871–1934; U.S. Indian Policy: Congress and the Executive, 1928–1946; Work, Hubert.*

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BIBLIOGRAPHY

- Critchlow, Donald T. "Lewis Meriam, Expertise, and Indian Reform." *Historian* 43 (May 1981): 325–344.
- Meriam, Lewis, et al. *The Problem of Indian Administration*. Baltimore, Md.: Johns Hopkins University Press, 1928.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.

Merrion v. Jacarilla Apache Tribe (1982)

See *Taxation*.

Mexico, Indian Policy of

When New Spain (Mexico) began to pursue its independence from Spain in 1810, the *criollo* (American-born Spaniards) elites cited Spain's mistreatment of Indians as one justification for separation from the imperial power. In 1813 independence leader José María Morelos declared that if the

Spanish conquest represented the destruction of Indian values and culture, then the Mexican War for Independence (1810–1821) represented the rejection of Spanish values by the Indian population. The revolutionary *Plan de Iguala* (February 24, 1821) declared all Mexican nationals citizens of Mexico, without any distinctions, thereby eliminating the social caste system developed under Spanish rule. With the passing of the post-independence constitutions, however, Indians lost special protections they had held under Spanish colonial law.

Spanish colonial authorities had made efforts to integrate the Indian population through the assignment of their communal lands to individuals and the introduction of taxes, but these measures had never been stringently enforced. With independence, individual land tenure came to be seen by political leaders as a key element of the Indians' progress in Mexico. Although landownership was supposed to help the Natives integrate into Mexican society, it also made more indigenous land available to non-Indians; moreover, Natives did not enjoy the same political and civil freedoms as non-Indians because they lacked the necessary economic means and faced discrimination.

Land—always a critical factor in Spanish-Indian relations during the colonial period, though at times overshadowed by labor issues—remained an important, and more complex, issue after independence. Until the mid-1850s and the passage of the so-called Reform Laws, Indian lands were largely owned communally; there was too much political change and upheaval in the country to force Indians to adopt private property ownership. Some Native peoples, including Yaquis and Zapotecs, forcibly resisted the imposition of the new land policy. Comanches and Apaches in the north simply ignored the reforms and continued their practice of raiding American and Mexican settlements.

The *desamortización* (disentailment) laws implemented during the period known as *La Reforma* were mainly targeted at the church but also affected Indians. According to these laws, most importantly the *Ley Lerdo* of 1856, no ecclesiastical or civil institutions were to own or administer property. While *ejidos*—pasture and wood lands owned communally by peasants—were partially and temporarily exempted, this protection was soon eliminated. As a result, large portions of Indian communal lands were confiscated, bought by the government, or sold to private investors. As Indian communities lost their lands, Native peoples were forced to work for the large landowners. Frustrated by the new land policy, many tribes rose up in periodic violence

over the next several decades. The Mexican state usually countered with force.

In 1863 the situation became grave for many Natives. President Benito Juárez, who was of Indian ancestry, issued the first federal laws allowing the sale of *terrenos baldíos*—lands held to be vacant, abandoned, or not worked—to raise money to fight the invading French army, which was deployed by Napoleon III to install Maximilian of Hapsburg as emperor of Mexico. Vast stretches of land to which Indians were unable to prove title were sold to large, non-Indian landowners. Once installed as emperor, Maximilian (1864–1867) made sincere efforts to improve conditions for the Indians, even publishing one of his agrarian laws in the *Nahuatl* language. Even so, very little changed for the Indians during his brief, contested rule.

The “Porfiriato”

During the early republic, Mexican governments typically governed for periods of less than a year, which impeded coherent policy development. This pattern changed with the election in 1876 of Porfirio Díaz, who governed the country as president or dictator for thirty-five years. His approach toward indigenous populations remained the same as that of past governments: redistribution of communal lands, exploitative labor conditions on *haciendas* (large ranching tracts granted to individuals), and pressure to assimilate.

During the *Porfiriato* (1876–1911), Indian policy was generally left to state governments. The regime’s primary goal was modernization and state-building. Díaz encouraged immigration from countries he considered best suited to modernize Mexico and invited foreign capital investment. Indians were largely considered a hindrance to development as they occupied lands coveted by the state.

The era’s rapid growth raised demand for cheap Indian labor, which the government sought to satisfy. When Indians failed to assimilate—some preferred to maintain their traditional way of life in their villages—the Mexican government resorted to more drastic measures, such as threats of violence, deportation, and extermination, to encourage Indians to work. Porfirian Indian policy aimed for maximum economic exploitation of Indians, but those in charge would resort to force absent a compelling reason.

The Díaz government often enforced the *Ley Lerdo* vigorously, and many Natives lost land when they could not produce valid titles. An 1883 law regarding *terrenos baldíos* caused Indian *ejidos* to lose more lands through the sale of lots deemed to be vacant.

Post–Revolutionary Mexico

Porfirio Díaz resigned and entered exile in May 1911, in response to a revolution opposing his reelection. A turbulent twenty-five-year period ensued, during which revolutionary leaders and philosophies changed frequently; the period was also marked by sporadic armed conflicts. Even though indigenous peoples participated in these revolutionary movements (and Indian support was of utmost importance to virtually all the revolutionary factions), the leaders of the rebellions usually did not represent the Indians’ interests and few really took up their cause. The most notable among these leaders and the staunchest supporter of land reform were Emiliano Zapata, who wanted to seize *hacienda* land and redistribute it to those who did not own land, and Francisco “Pancho” Villa, who backed small property owners against large landowners. Their policies, however, were not sufficiently long-lived to make much difference for indigenous communities.

Natives suffered from new efforts to acquire their lands in these chaotic years. According to revolutionary doctrine, Native peasants (*campesinos*) were to be rescued from poverty and ignorance by the revolution, by the redistribution of land to them, and by their subsequent integration into Mexican society. Despite embracing revolutionary creed and enacting agrarian laws during the Mexican Revolution, however, the various governments failed or were slow to implement reforms. Even though the presidency of Victoriano Huerta started what has been called the beginning of “indigenist” policies—that is, those that demonstrated appreciation for the interests and contributions of Indians to Mexican society—there were only slow and tentative steps at putting theory into practice.

Schemes like future president Venustiano Carranza’s 1913 *Plan de Guadalupe* omitted any reference to land reform. Only after being installed as president and facing waning support did Carranza (1915–1920) modify his policy. His *Ley Agraria* of 1915 went even beyond Zapata’s aims, stipulating a return of lands that had been taken from communities and their distribution as *ejidos* to communities without land. Once Villa and Zapata had been eliminated as political opponents, however, Carranza abandoned this decree.

At Carranza’s urging, a majority of delegates at the Constitutional Convention of 1916–1917 secured the passage of Article 27, which declared Mexico to be the sole owner of all land within its limits. The convention reserved the right to return lands that had been taken from Indian

communities during the Porfiriato but also authorized the state to expropriate land for its own purposes. Mexico, in other words, was abandoning what was called "allotment" in the United States and restoring Indians' right to own land communally. While some *haciendas* were expropriated by the government and redistributed as *ejidos*, it was a very slow and uneven process. Legally, the *ejidos* that were created or restored could not be conveyed, leased, mortgaged, or used to secure loans, although some communities found ways around these legal safeguards.

In the aftermath of the Mexican Revolution, there were serious setbacks and considerable opposition to the implementation of Article 27. In 1930 President Plutarco Elías Calles pronounced the agrarian reforms a failure and stopped all land distributions. He instead emphasized Spanish language instruction to help the Indian population achieve acculturation. Some later governments similarly turned to education, primarily focusing on language and vocational skills, in ostensible attempts to integrate the Indians into Mexican society. Some of Calles's successors, however, resumed land redistributions. Nonetheless, most of the existing *hacienda* claims were generally preserved; a number of presidents considered *ejidos* to be a temporary measure rather than an alternative to privately owned large-scale agriculture. The few parcels that were distributed to Natives were generally of poor quality.

Cárdenas and Beyond

More stability and far-reaching restructuring of Mexican land ownership was achieved following the election of Lázaro Cárdenas in 1934. Cárdenas was the first president to give serious weight to the preferences of the indigenous population. Unlike his predecessors, including Adolfo de la Huerta, Calles, and Álvaro Obregón, Cárdenas saw the *ejido* as a countermodel to capitalist agriculture. He distributed approximately 44.5 million acres (18 million hectares) of land to some eight hundred thousand recipients, including Indians and mestizos (people of mixed ancestry). Following this, the *ejidos* held 47 percent of all cultivated land, a large increase compared with 15 percent in 1930. The *ejidal* population more than doubled, from 668,000 to 1.6 million, and the landless population fell from 2.5 million to 1.9 million. Still, few people had enough land to make farming profitable, which revealed the improvised and symbolic nature of these reforms.

Although Cárdenas fought considerable opposition to his land reform measures, the prevailing objective of his

Mexican Indian policy remained assimilation. Cárdenas stated that the task was not to encourage the Indian to remain Indian or to Indianize Mexico, but instead to Mexicanize the Indian. Like many of his contemporaries, he regarded his approach as a way of preventing the extinction of the Indians. Accordingly, he created the *Departamento Autónomo de Asuntos Indígenas* in 1936, which was dedicated to indigenous issues. In addition, the government pioneered a number of technical and agricultural training programs. Although these were more open to indigenous values than many of the earlier or later programs, they emphasized the Spanish language as the key to indigenous advancement.

The relatively progressive reforms under Cárdenas ended with the election of Manuel Ávila Camacho in 1940. Ávila initiated a new agrarian policy whose core ideals have remained unchanged to the present. He distributed only about 15 million acres (6 million hectares) of land during his administration. Moreover, though his 1942 Agrarian Code bestowed *ejidatarios* (members of *ejidos*) with titles and certificates to lands, those often took so long to obtain that people ceased to pursue them. Post-Cárdenas agrarian policies, like irrigation development, once again favored the non-Indian private-sector and large-scale landholdings rather than the *ejidos*. Distribution of new *ejidal* lands almost came to a halt. Several subsequent presidents even sought to eliminate the *ejidos* by breaking them up into parcels. Declining interest in the Indians' cause was reflected by the closing of the *Departamento Autónomo de Asuntos Indígenas* under Miguel Alemán, which provoked protests by Indians and led to the creation of the *Instituto Nacional Indigenista* (INI) to take control of Indian affairs. The *Instituto*, however, had a limited budget and saw its responsibilities reduced over time. (In 2003, the INI was replaced by the *Comisión Nacional para el Desarrollo de los Pueblos Indígenas*.)

Since the 1950s, the trend in Indian land policy has been toward *neolatifundios* (new large-scale landholdings). This policy direction led to increasing protests by peasants and forced the government to make concessions. In August 1969, for example, President Gustavo Díaz Ordaz declared that there were no more lands available for distribution to Indians. But Luis Echeverría Álvarez, elected in 1970, distributed more than 16 million acres (6.5 million hectares) of land. He and Cárdenas came to be regarded as the Mexican presidents most concerned with Indian welfare. Miguel de la Madrid, president from 1982 to 1988, worked to change Article 27 of the Constitution of 1917 to open up *ejidos* for private-sector investment and halted land redistributions.

In 1992 the Mexican government passed drastic reforms of Article 27. For the first time in Mexican post-Revolutionary history, legislation permitted the transfer of *ejido* lands to private individuals and provided for the negotiation of long-term leases. With the exceptions of Cárdenas, Echeverría, and López Portillo, who sought the expansion and modernization of the *ejidos*, post-Revolutionary Mexican governments have offered only limited redistribution of generally poor lands to landless peasants and small farmers (many of whom were Indian). The state may not have been strong enough to enforce a coherent policy regarding the indigenous members of the nation, or, more likely, it was unwilling to face the political consequences of distributing lands to the poor and marginalized.

Although early revolutionary leaders claimed they wanted to overcome the colonial past by integrating Indians into society as citizens, Indian policy in the post-revolutionary era was inconsistent and largely limited to land redistribution and education assistance. As the land reform measures were not solely geared toward indigenous Mexicans, but rather toward all of the landless poor, they can only be identified as "Indian policy" tangentially, even though the majority of these landless poor were and are of indigenous ancestry.

See also *Guadalupe Hidalgo (1848), Treaty of; Spain, Indian Policy of; U.S.-Mexican War (1846-1848).*

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BIBLIOGRAPHY

- Autrey Dabbs, Jack. "The Indian Policy of the Second Empire." In *Essays in Mexican History*, edited by Thomas E. Cotner, 113-126. Westport, Conn.: Greenwood Press, 1958.
- Benítez, Fernando, et al. *Cultura y derechos de los pueblos indígenas de México*. Mexico City: Dirección de Publicaciones, Archivo General de la Nación, Fondo de Cultura Económica, 1996.
- Dawson, Alexander. *Indian and Nation in Revolutionary Mexico*. Tucson: University of Arizona Press, 2004.
- Edmunds, R. David. "Native Americans and the United States, Canada, and Mexico." In *A Companion to American Indian History*, edited by Philip J. Deloria and Neal Salisbury, 397-421. Malden, Mass.: Blackwell, 2002.
- Floris Margadant, Guillermo. "Official Mexican Attitudes toward the Indians: An Historical Essay." *Tulane Law Review* 54 (1980): 964-986.
- Gabbert, Wolfgang. *Becoming Maya: Ethnicity and Social Inequality in Yucatán since 1500*. Tucson: University of Arizona Press, 2004.
- Hatfield, Shelley Bowen. *Chasing Shadows: Indians Along the United States-Mexico Border, 1876-1911*. Albuquerque: University of New Mexico Press, 1998.
- Knight, Alan. "Racism, Revolution, and *Indigenismo*: Mexico, 1910-1940." In *The Idea of Race in Latin America, 1870-1940*, edited by Richard Graham, 71-113. Austin: University of Texas Press, 1990.
- Spicer, Edward Holland, ed. *Cycles of Conquest: The Impact of Spain, Mexico, and the United States on the Indians of the Southwest, 1533-1960*. Tucson: University of Arizona Press, 1962.
- Vázquez Castillo, María Teresa. *Land Privatization in Mexico: Urbanization, Formation of Regions, and Globalization in Ejidos*. New York: Routledge, 2004.

Miles, Nelson A.

Nelson Appleton Miles (1839-1925) led many of the U.S. Army's most important and iconic campaigns against American Indians in the West.

Born near Westminister, Massachusetts, Miles enlisted in the infantry at the outbreak of the Civil War. During the war, he rose through the army to the rank of major general of volunteers. Miles was wounded during battles at Fredericksburg and Chancellorsville, Virginia, where he earned the Congressional Medal of Honor.

Miles remained in the army after the war, and in 1869 he was appointed commander of the Fifth U.S. Infantry Regiment. In 1874 he fought the Kiowas, Comanches, and Southern Cheyennes in the Red River War and against the Sioux in the Black Hills in 1877. That same year, his troops pursued and captured Chief Joseph and forced the chief's Nez Perce tribe to surrender. In 1878 Miles's forces helped to prevent the Bannocks and Northern Paiutes from escaping into Canada. The following year, his troops chased Sitting Bull and his Lakota Sioux followers all the way into Canada.

Miles commanded the Department of the Columbia from 1880 to 1885 and moved to the Department of Arizona in 1886, where he succeeded Gen. George Crook and directed forces that captured the famed Indian leader Geronimo and his Chiricahua Apaches. Miles sent Geronimo to a military prison in Fort Marion, Florida.

In 1890 Miles took command of the Department of the Missouri. When the Ghost Dance movement swept across the Sioux reservations in western Dakota, Miles ordered the arrest of Sioux leaders Sitting Bull and Big Foot. During the massacre at Wounded Knee in December 1890, Miles assumed personal command of field operations.

A controversial character, Miles claimed that he opposed waging total war against Indian peoples, and yet he led winter campaigns against the Sioux and endorsed vigorous attacks to weaken the Apaches. Such aggression, he argued, was necessary because government policy was poorly planned and executed. Miles believed that Indian groups, although racially inferior, could advance toward "civilization"; however, he pointed out that the Indian Bureau mis-

managed reservations, failing to provide support and leadership. Like other reformers, Miles believed that centralizing Indian affairs within the War Department, mandating education, and forcing Indians to submit to U.S. authority would end armed conflict with Native peoples.

In 1894 Miles commanded the federal troops involved in the Pullman strike riots. The next year he was appointed commanding general of the army, and he went on to participate in the Spanish–American War. He retired from the army in 1903.

See also *Big Foot; Black Hills; Geronimo; Joseph, Chief; Red River War; Sitting Bull; Wounded Knee Massacre (1890).*

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BIBLIOGRAPHY

Amchan, Arthur J. *The Most Famous Soldier in America: A Biography of Lt. Gen. Nelson A. Miles, 1839–1925*. Alexandria, Va.: Amchan Publications, 1989.

Johnson, Virginia W. *The Unregimented General: A Biography of Nelson A. Miles*. Boston: Houghton Mifflin, 1962.

Miles, Nelson A. *Serving the Republic: Memoirs of the Civil and Military Life of Nelson A. Miles*. New York: Harpers, 1911.

Wooster, Robert W. *Nelson A. Miles and the Twilight of the Frontier Army*. Lincoln: University of Nebraska Press, 1993.

Military Policy of the United States, 1776–1860

Between 1776 and 1860, one of the primary responsibilities of the United States military was to implement the nation's Indian policy. United States Indian policy during this period consisted of acquiring Native land for redistribution to American farmers, which required pacifying Native Americans and protecting American citizens migrating to the frontier. In fact, U. S. policy up until 1933 was primarily focused upon acquiring Native land. The methods used by the government to accomplish this included negotiation, threat of war, actual warfare, Native assimilation programs, and, in some cases, outright fraud, theft, and dishonesty.

The American Revolution

Prior to the outbreak of the American Revolutionary War (1775–1783), American colonists garnered considerable experience fighting against Native Americans, as well as French and Spanish troops in North America. Colonial Americans adopted Native American guerilla tactics, rather than the European style of inline battlefield maneuvers, and used them even when they engaged European opponents.

Guerilla warfare helped limit casualties at the same time that it hindered an opponents' ability to wage war. Americans also developed the Kentucky rifle, a light musket with a grooved bore, which provided greater range and accuracy and was also easier to load and carry than the weapons provided by European armies to their troops.

Colonial Americans also developed their own type of warfare in fighting Native Americans during this era. Since most Native groups avoided large and prolonged engagements in which they could suffer significant casualties, often disappearing into the wilderness at the first sign of a larger force, Americans developed the strategy of burning temporarily abandoned Indian towns and their surrounding horticultural fields.

Other key developments during the colonial era included the reliance on the militia for defense and volunteer forces for emergencies. Tight civilian control over military forces became a formalized, American tradition under the United States governments of the Articles of Confederation and the Constitution and had an impact on the way that the United States engaged Native enemies during the first several decades of the nation's history.

The United States Indian policy during the American Revolutionary War was an ad hoc approach at best. At the outset both the British and the Americans began negotiating for alliances with Native groups from the Atlantic to the Mississippi River. Eventually, most Native American groups sided with the British, as most correctly surmised that the Americans posed a greater threat to Native land and sovereignty. The only major Native groups to side with the Americans were the Tuscaroras and Oneidas of the League of Six Nations Iroquois in the North (thus splitting that confederacy in two), and the Catawbias in South Carolina. More significantly, the Muscogee Creek Confederacy in the South remained essentially neutral.

American troops attacked the British-allied Iroquois, burning more than forty villages in 1779. Few Iroquois warriors were killed during these campaigns, but the Iroquois suffered bitterly due to the loss of their fields and food stores, and the campaign laid the groundwork for American claims to land in western New York and western Pennsylvania after the war. This in turn ultimately led to the exile of many Iroquois to Canada or to isolation on small reservations in New York, as American settlers flooded Iroquois lands in the postwar years.

In the South, the Cherokees launched attacks on American frontier settlements in Tennessee, Kentucky, Virginia,

and the Carolinas, in 1776. The Cherokees were defeated by the Americans and had to cede land in the Treaty of DeWitt's Corner on May 20, 1777, and the Treaty of Long Island of the Holston on July 2, 1777. These treaties precipitated the creation of the Chickamaugas, a separatist group of Cherokees who violently resisted the Americans into the 1790s. Many Upper Muscogee Creeks joined the Chickamaugas in their campaign against the Americans. Other Creeks remained neutral as did many Choctaws, but the Chickasaws remained staunchly loyal to the British. The Chickasaws with their Loyalist allies garnered several victories on the frontier and continued their resistance to the Americans after the war by allying themselves with the Chickamaugas. The Seminoles began raiding the Georgia frontier during the American Revolutionary War, but they fought for their own purposes and not those of the British. After the war, the Seminoles, much like the Chickamaugas and the Chickasaws, continued their attacks against the Americans.

During the war, American troops only truly successfully defeated the Cayugas, the Mohawks, the Onondagas, and the Senecas from the Iroquois League and the Cherokees. At the same time, Kentucky settlers waged an indecisive campaign against Ohio Valley groups, including the Shawnees, the Delawares, the Wyandots, the Mingos, and the Miamis. In the victories the United States had over Native people, American troops used the total war strategy of burning towns and crops that had been so successful during the colonial era. The successful campaigns were fought primarily by Continental soldiers, with militia playing lesser roles as reserves, scouts, and support troops.

Conquest Policy

As the Revolutionary War came to an end, the Treaty of Paris (1783) with Great Britain acknowledged U.S. claims to most of the land between the Mississippi River and the Atlantic Ocean, except for Spanish-held Florida and the eastern portion of Louisiana. Yet claiming the land beyond the Appalachian mountains and controlling that land were not one and the same. Native claims to American lands beyond the Appalachian mountains were never considered in the treaty negotiations. Additionally, none of the signers of the peace treaty ever considered the fact that the Americans had not defeated any of the Indian nations west of that divide.

Despite having significant Native foes on the frontier, the United States demanded that Native leaders sign a series of

treaties ceding land without any compensation. These treaties included the Treaty of Fort Stanwix with the Iroquois (1784); the Treaty of Fort McIntosh with the Great Lakes tribes (1785); the Treaties of Hopewell with the Cherokees, Chickasaws, and Choctaws (1785–86); and the Treaty of Fort Finney with the Ohio Valley tribes (1786). The creation of these treaties marked the beginning of a brief period in which the United States treated Native groups as conquered and suppressed entities, despite the fact that they had not actually defeated them. The United States followed up this initial set of treaties with more agreements that required Native people to cede their lands. As a result, an ever increasing tide of American settlers flooded the frontier, which exacerbated tensions with Native Americans.

During the Articles of Confederation government, the United States placed responsibility for Indian affairs under the control of the War Office, which indicated the nature of the relations the United States expected to have with Native people. During this period in which the United States was trying to dictate conditions to the tribes, its army tried to protect American settlers from Indian raids and keep the two groups separated from each other. The military's lack of success can mainly be attributed to the fact that the government under the Articles of Confederation maintained a small standing army and relied too heavily upon militia to protect the frontier. Additionally, the lack of an executive branch to direct the military and the unwillingness of the states to provide funds to maintain the small army doomed the government to an ineffectual presence on the frontier.

Eventually, the United States realized the need to formalize the methods it used to interact with Native American groups. In the Northwest Ordinance, the United States government declared that "the utmost good faith shall always be observed towards the Indians, their lands and property shall never be taken from them without their consent; and in their property, rights and liberty, they shall never be invaded or disturbed, unless in just and lawful wars authorized by Congress." This shift in the United States policy indicated recognition by the government that it did not have the upper hand on the frontier. With the implementation of the Constitution and under the administration of George Washington, this shift continued. The outbreak of warfare with tribes in the Old Northwest as well as the ongoing Chickamauga resistance and raiding by Seminoles confirmed the need to reform U.S. Indian policy.

Recognizing the primarily hostile nature of relations with Native peoples, the Washington administration contin-

ued to rely on the War Department for implementing Indian policy. Secretary of War Henry Knox increased the size of the army to more than 1,200. As a result of the process of quelling Native resistance, Henry Knox proposed a “civilization” program as a comprehensive method for solving the “Indian problem.” President Washington then set out to put down the Native resistance in the Old Northwest, known as Little Turtle’s War, because it threatened more settlers than the Chickamauga and Seminole problems to the south.

In 1790 Washington sent Brigadier General Josiah Harmar with eleven hundred militia and three hundred regular troops into the Ohio valley. However, Harmar was outwitted and outfought by Little Turtle, who led a smaller force comprised of Miamis, Shawnees, Ojibwes, Delawares, Potawatomis, and Ottawas. In 1791, General Arthur St. Clair led a force of six hundred regulars, eight hundred six-month enlistees, and six hundred men from the militia against Little Turtle. St. Clair was routed in the worst defeat of the United States Army at the hands of a Native group until Custer’s disaster at Little Bighorn in 1876. Finally, Washington sent in “Mad” Anthony Wayne with a formidable army of three thousand men. Wayne defeated the confederated Native force at the Battle of Fallen Timbers in 1794; and in 1795, he negotiated the Treaty of Greenville, which secured much of what is now Ohio for the United States. As Wayne began to establish order in the Old Northwest, Washington and Knox turned to solving the problem with the Chickamaugas in the South.

The Chickamaugas were primarily a collection of Overhill Cherokees that allied with groups of Chickasaws, Choctaws, Upper Muscogee Creeks, and Shawnees. The Chickamaugas relocated down the Tennessee River in the vicinity of Chickamauga Creek after the defeat of the Cherokees in 1776. There they began an intermittent campaign against American settlers that lasted into the 1790s. The Chickamaugas received British support out of Detroit and Florida, Spanish support from Florida, and support from Native allies to their north and south. Eventually, the United States organized the Southwest Territory in 1790, and used federal funds to end Chickasaw and Choctaw contributions to the Chickamauga movement by promising food, farm supplies, and other needed items to these two nations. The Southwest Territory also armed fifteen thousand men over the age of twenty-one for use against the Chickamaugas. Then, through diplomacy, the United States government shut down the Chickamauga supply lines from Detroit and Florida. Finally, northern allies such as the Shawnees were

defeated at Fallen Timbers. Faced with large numbers of American frontiersmen on all sides, a growing peace party in their midst, and the increasing pressure from other Cherokees to end hostilities, the futility of the Chickamauga position became apparent, and they negotiated an end to hostilities with the Americans in 1794. Although Miccosukee Seminole raids on the Georgia frontier continued for a long time thereafter, Washington was able, at this point, to implement Knox’s “civilization” plan.

The Civilization Program

The United States’ first truly organized and comprehensive Indian policy was the “civilization” plan. Grounded in the Enlightenment belief that Indians were the natural equivalent of whites at birth, proponents of the civilization program hoped that through education and cross-cultural relations, Indians would slowly accommodate to Anglo-American lifestyle. Knox believed that it was in the best interest of Indians to give up hunting, which required vast territories, and instead adopt the American yeoman-farmer lifestyle. This policy was well-intentioned but naïve, for it failed to appreciate the speed with which the American population was growing and moving west, the unwillingness of Americans to live side-by-side with Native Americans, and the resistance of Indians to acculturate to American ways.

The army’s primary responsibility under the civilization plan was to support appointed agents in their efforts to train Native people to become farmers. American soldiers also maintained patrols to keep unauthorized and unscrupulous Americans out of Indian Country. It was hoped that by isolating Native people from the less desirable elements in American society they would be more receptive to civilization. Although the military set up posts that successfully supported Indian agents and their agenda, the army could not manage the impossible task of keeping out all unauthorized Americans. These Americans undermined the civilization process by bringing alcohol among the Native American communities and disrupting the United States’ monopoly over the Indian trade. Additionally, traders from British Detroit in the North and Spanish Florida in the South undermined the American programs. Again, in this situation the military was too small and underfunded to secure the United States’ borders, maintain peace between Indians and settlers, and keep out foreign agents and traders.

The civilization program did not result in the acquisition of Indian land as quickly as many Americans desired, and

some began to call for the government to abandon the program and solve the Indian problem through relocation. While Thomas Jefferson initially preferred that eastern Indians remain in the east as agriculturists, after he acquired the Louisiana Territory during his presidency, he considered colonizing the West with Native people that would remove there voluntarily. This voluntary removal would help Native people to continue on the path toward civilization away from the corrupting elements usually found in American frontier communities. In fact, Jefferson felt voluntary removal would actually speed up “civilization,” since Native people would no longer be exposed to these unsavory elements of United States society. After the War of 1812 policymakers began to embrace Jefferson’s idea of removal.

Eliminating the Native Military Threat in the East

Just prior to the outbreak of the War of 1812, the Old Northwest Indian confederacy arose again to resist American settlement there. The Shawnee brothers, Tecumseh and Tenskwatawa, were the new leaders. Ultimately, the War of 1812 absorbed their resistance against the expanding American frontier, and their fate became tied to that of the British in the Great Lakes region. To the South, Tecumseh helped inspire a Native revitalization movement among the Upper Creeks. This movement eventually led to the outbreak of the Creek Civil War (the Red Stick War), which also merged into the War of 1812. William Henry Harrison eventually defeated the British and the Old Northwest Indian confederacy in the North, and Andrew Jackson destroyed the Red Stick Creek forces at the Battle of Horseshoe Bend in the South before defeating the British at the Battle of New Orleans. Both generals practiced the style of total warfare that Americans had been using against Native Americans since the colonial era, and both wiped out Native forces in the end with armies built around a core of regulars supplemented by militia. Jackson also employed forces from other Native groups in the South.

After the War of 1812, the United States gradually moved toward Jefferson’s policy of removal. Some tribes, primarily in the Old Northwest, did relocate under federal auspices between the years of 1804–1825. During the presidency of James Monroe, Americans, particularly in the South and West, began to call on the federal government to remove all of the Indian tribes west of the Mississippi River. By 1828, most tribes in the Old Northwest had relocated west of the Mississippi with the notable exception of the Potawatomis, Ottawas, and Ojibwes, but large numbers of Native people

in Alabama, Florida, Georgia, and Mississippi refused to join the exodus. That all changed with the election of Andrew Jackson in 1828. In 1830 Congress passed the Indian Removal Act, which provided Jackson with the authority to negotiate removal treaties with tribes in the East. By the mid-1840s almost all of the tribes in the United States had been relocated to new lands west of the Mississippi.

The removal policy was callous in its conception and brutal in its execution, and the U.S. military played a role in the tragedy. For instance, the army and volunteers from the southern states rounded up the Cherokees by force and drove them to internment stockades. From there the Cherokees migrated on their own to the Indian Territory over the course of the brutal winter of 1838–1839. In the case of the Potawatomis who refused removal, the army burned many of their homes, and, in some cases, the military imprisoned their leaders in jail wagons to force their followers to begin the journey. The U.S. military nominally supervised the actual removals; however, the populations of some of the tribes were diminished by as much as one-fourth to one-half as a direct consequence of their removal, in part because the military did such a poor job of supplying those who were being expelled from their homelands.

Not all Native groups went without resistance, and the U.S. government used its army to complete their removal. These wars included the Winnebago (Ho-Chunk) and Kickapoo Uprisings. In 1832 the United States defeated Sac and Fox followers of Black Hawk, who had returned to their homes in Illinois. The Second Seminole War (1835–1842) was a particularly bitter and expensive conflict for the United States. In its effort to remove the Seminoles, the United States spent more than forty million dollars (the equivalent of more than seven billion dollars today) and suffered more than two thousand soldiers killed to remove three thousand Seminoles from Florida. Hundreds of Seminoles died as a consequence of the war and their removal. In the end, about five hundred Seminoles remained in Florida after the United States government decided the war was no longer worth the casualties and expense.

After the removal of the eastern tribes, the United States government shifted the control of Indian affairs out of the War Department and into the newly created Department of the Interior; however, this did not end the military’s close involvement in implementing the United States Indian policy. After the settlement of the Oregon boundary with Great Britain in June of 1846 and the acquisition of the Mexican cession (today’s southwestern United States) at the end of

the United States–Mexico War in 1848, the daunting task of controlling and administering millions of additional square miles and governing hundreds of thousands of Native Americans confronted the United States. The discovery of gold in California in 1848, and the ensuing flood of immigrants to the California and the Oregon territories the next year made this task all the more formidable. Further complicating the matter, Americans realized that the Great Plains region was not a desert area and could be successfully inhabited and turned to cultivation. These developments marked the beginning of a new era in U.S. Indian policy as the government began to isolate thousands of Native Americans onto reservations. During the 1850s, the United States acquired nearly two hundred million acres of land from Native Americans through the negotiation of a large number of treaties. More times than not, military personnel were present, if not actively engaged, in the negotiations. The U.S. Army and the Office of Indian Affairs (OIA) implemented the reservation system. The army also explored and patrolled the western frontier in an effort to keep settlers and miners separated and safe from Native Americans, and vice versa. When necessary, the government used the army to put down Native resistance and force recalcitrant tribes and groups to the reservations. Despite the advent of the Civil War, the expansion of the reservation system continued well into the latter part of the nineteenth century.

Starting out as a small institution reliant more upon volunteers than professional soldiers, the U. S. military grew to tens of thousands of highly trained soldiers, with a solid cadre of experienced officers supported by potentially hundreds of thousands of militia, on the eve of the Civil War. At the same time, just as the military grew and prospered throughout this period, Native populations shrank, their societies suffered dislocation, and their cultures were diminished and transmuted by United States Indian policy.

See also *American Revolutionary War*; *Army, United States*; *Black Hawk*; *Black Hawk War (1832)*; *Bureau of Indian Affairs*; *Cherokee War of 1776*; *Civilization Program*; *Creek Civil War*; *Dragging Canoe*; *French and Indian War*; *Greenville, Treaty of*; *Harmar, Josiah*; *Harrison, William Henry*; *Hopewell, Treaties of*; *Indian Removal Act*; *Indian Territory*; *Jackson, Andrew*; *Jefferson, Thomas*; *Knox, Henry*; *Little Turtle*; *Louisiana Purchase*; *Northwest Ordinance*; *Paris (1783), Treaty of*; *Removal*; *Reservations*; *St. Clair, Arthur*; *Second Seminole War*; *Tecumseh*; *Tenskwatawa*; *Trail of Tears*; *U.S.-Mexican War (1846–1848)*; *War, U.S. Department of*; *War of 1812 (1812–1814)*; *Washington, George*; *Wayne, Anthony*.

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BIBLIOGRAPHY

- Calloway, Colin G. *The American Revolution in Indian Country: Crisis and Diversity in Native American Communities*. New York: Cambridge University Press, 1995.
- Dippie, Brian W. *The Vanishing American: White Attitudes and U. S. Indian Policy*. Lawrence: University Press of Kansas, 1982.
- Edmunds, R. David. *Tecumseh and the Quest for Indian Leadership*. Boston: Little, Brown, 1984.
- Knetsch, Joe. *Florida's Seminole Wars, 1817–1858*. Charleston, S.C.: Arcadia Publishing, 2003.
- Missall, John and Mary Lou Missall. *The Seminole Wars: America's Longest Indian Conflict*. Gainesville: University Press of Florida, 2004.
- O'Brien, Sean Michael. *In Bitterness and in Tears: Andrew Jackson's Destruction of the Creeks and Seminoles*. Westport, Conn.: Praeger, 2003.
- Owsley, Frank Lawrence, Jr. *Struggle for the Gulf Borderlands: The Creek War and the Battle of New Orleans, 1812–1815*. Gainesville: University Press of Florida, 1981.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- . *The Sword of the Republic: The United States Army on the Frontier, 1783–1846*. Lincoln: University of Nebraska Press, 1987.
- Remini, Robert V. *Andrew Jackson and His Indian Wars*. New York: Penguin Books, 2002.
- Sword, Wiley. *President Washington's Indian War: The Struggle for the Old Northwest, 1790–1795*. Norman: University of Oklahoma Press, 1985.

Military Policy of the United States, 1860–1890

From 1860 to 1890, the primary responsibilities of the U.S. military (with the obvious exception of fighting the Civil War) were to protect railroad construction and migrating Americans in the West, pacify hostile Native Americans, and relocate Natives to reservations set aside to isolate them from the rest of the U.S. population. This thirty-year era was the last stage in the U.S. wars with Native peoples over control of the American continent.

After the settlement of the Oregon boundary with Great Britain in June 1846 and the acquisition of the Mexican Cession (today's southwestern United States) at the end of the U.S.–Mexican War in 1848, the United States was confronted with the tasks of controlling and administering the additional millions of square miles of territory and dealing with the thousands of Native Americans who lived there. The discovery of gold in California in 1848 and the ensuing flood of immigrants to the California and Oregon territories the next year made these tasks all the more formidable. Further complicating matters, Americans realized that the Great Plains region was not a desert area and so could be

successfully inhabited and turned to cultivation. Meanwhile, a majority of Americans fully embraced the romanticized notion that it was the “manifest destiny” of the United States to control the continent from the Atlantic to the Pacific. This notion provided a justification for taking Native lands and relocating Native people to isolated reservations away from American commercial expansion and settlement. In the years leading up to the Civil War, the U.S. Army therefore focused primarily on patrolling the western frontier in an effort to maintain some distance between settlers and miners and Native Americans.

Under pressure to protect U.S. citizens, the federal government initiated unilateral action in the 1850s against the Native peoples who still occupied the nearly two hundred million acres of land on the Great Plains, in the Great Basin, in the Southwest, and in the Pacific Northwest that had been acquired from Native Americans through several major treaties. More times than not, military personnel were present at the treaty negotiations, if not actively engaged in the diplomatic process. Federal representatives, military or not, often employed methods steeped in deceit and duress to secure the cessions the government wanted. As a direct outgrowth of the need to pacify Native peoples, acquire tribal land, and protect U.S. citizens, some areas—California and the Oregon territory, in particular—became laboratories for experimentation with the reservation system. Government officials sought to use reservations to assimilate Native peoples into the Anglo-American culture. At the same time, they hoped to prevent conflicts between Native men and American settlers by isolating Native peoples away from the primary routes of migration and the favored spots of settlement. It fell to the military and the Office of Indian Affairs (OIA) to implement the reservation system.

During and after the Civil War, the federal government extended the reservation policy throughout the West. Although the intent of the reservation system was to assimilate Natives, reservations ultimately served more or less as prison camps from 1860 to 1890. During this era, considerable violence broke out throughout the West as Native peoples resisted steady encroachment upon their territories by settlers and rejected calls to relocate on reservations. Policymakers failed to fully appreciate the cultural and practical implications of the farming lifestyle they were trying to impose on Plains Indians. Accustomed to hunting and deriving status from prowess in warfare, the Indians found the reservation experience an unbearable ordeal. To make matters worse, federal policies sometimes consolidat-

ed unrelated tribes onto single reservations, all in the name of assimilation and opening more territory for American settlement.

Volunteers and Reform of Military Policy

Volunteer militiamen also contributed to tensions. In the West during the Civil War, volunteers replaced officers and enlisted men, who were needed in the eastern theaters of the conflict. These recently arrived settlers-turned-militiamen in the West tended to view Native peoples as savages and impediments to American progress. Some even advocated exterminating the Native population. The actions of volunteer forces contributed to particularly violent episodes such as the Pyramid Lake War (1860) with the Southern Paiutes in Nevada. Volunteers committed horrific atrocities against Native peoples, further heightening hostilities in the West. One such incident occurred at Sand Creek in Colorado. In 1864 Col. John M. Chivington led seven hundred volunteers in an early morning raid on a peaceful camp of 550 Cheyennes and Arapahos at Sand Creek. Acting on Chivington's orders to take no prisoners, Colorado militiamen slaughtered more than 150 men, women, and children and sadistically mutilated their corpses. The massacre at Sand Creek not only enraged Native peoples in the region, but raised questions among the American public about the conduct of Indian policy in the East. Faced with mounting opposition to the immorality and expense of protracted conflict, policymakers in Washington moved to reform U.S. Indian policy.

General-in-Chief of the U.S. Army Ulysses S. Grant was shocked by the actions of the volunteers at Sand Creek and in the bloody conflict with the Santee Dakota in Minnesota (1862), and he was concerned about the growing resistance of Teton (Lakota) and Yankton (Nakota) Sioux in the Dakota Territory. Thus in August 1864 he dispatched Gen. John Pope, the commanding general of the Northwest, to Minnesota and Dakota. Pope commanded the First U.S. Volunteer Infantry Regiment, which was composed of Confederate prisoners of war who had taken the oath of allegiance to the United States and enlisted in the Union Army. Known as the Galvanized Yankees, this regiment protected migrating settlers from Lakota reprisals. Eventually, nearly six thousand Galvanized Yankees served in army campaigns from the fall of 1864 until late 1865 and helped improve the battered image of the western army stemming from the actions of volunteers during the Civil War. After the war, many Civil War veterans remained in the army, pro-

viding it with a measure of professionalism and discipline not found among the volunteer ranks.

The U.S. Military and the Peace Policy

Westward migration intensified after the Civil War. Encouraged by the Homestead Act of 1862, which provided settlers with 160 acres of public land, and the Railroad Enabling Act of 1866, which transferred reservation lands to corporations and provided no compensation for Natives, waves of settlers moved westward, thereby exacerbating the desperate situation of Native peoples. This migration led to the escalation of hostilities with tribes living off of reservations. Other Natives left reservations to join in the fight against American expansion.

The Indian wars during this period included the Bozeman Trail War (1866–1868) against the Lakota Sioux and their allies, the Northern Cheyennes and the Northern Arapahos in Wyoming and Montana; the Snake War (1866–1868), involving the Yahuskin and Hualapzi bands of Northern Paiutes in Oregon and Idaho; the Central Plains War against the Southern Cheyennes, Southern Arapahos, and some Lakota Sioux allies (1867); and the Southern Plains War (1868–1869) with the Cheyennes, Arapahos, Lakotas, Comanches, and Kiowas. Although the Native forces often won battles in these conflicts, the U.S. Army was eventually successful in putting down their resistance and forcing them to reservations.

The professionalization of the army, however, did not end the brutality of conflict. The inability, or unwillingness, of some military units to distinguish friendly Natives from hostile ones complicated the military mission in the West and contributed to massacres of Cheyennes at the Washita River (Indian Territory) in 1868 and Piegan Blackfeet (Montana) in 1870. Despite these atrocities, military leaders, including William T. Sherman, general of the army, agreed with the government's plan to subdue the Natives' resistance and force them to reservations, so that they could be prepared for their assimilation by the majority society at some point in the future. As a general rule, U.S. Army officers followed this directive and did not promote extermination of the Native population. Nevertheless, the impact of U.S. military policy, particularly the internment of Native peoples on reservations and the efforts to obliterate their traditional practices, including hunting, was devastating to Indian health and morale.

Corruption also marred the relations between Indians and officers and enlisted men in the West. Indian agents and contractors hired to provide supplies to reservations often

cheated the Natives out of their provisions, stole their annuities, and provided spoiled or rotting food. In response, even more Natives left their reservations. By the end of the 1860s, endemic corruption in the Indian Service, escalating hostilities with the tribes, withering criticism of the army's performance, and charges that Indian wars in the West cost \$1 million per Native killed, fueled a growing cry to reform Indian policy.

In 1869 President Ulysses Grant responded to the growing outcry by initiating a "policy of peace" toward Native Americans. Grant replaced civilian officials in the BIA with representatives from religious groups who were reputed to hold the Indians' best interests in mind and were immune from political pressures. The government also created a national Board of Indian Commissioners made up of philanthropists and reformers who were commonly known as "friends of the Indian." This board monitored the actions of the OIA and reported its findings to the president. The Grant administration hoped this new policy would diminish the need for military actions in the future.

But at the same time, Gen. Philip H. Sheridan was issuing orders to hunt down "fugitive" Native peoples and forcibly return them to reservations. In practice, these actions applied to Natives who had never been confined to reservations. Grant expected the army to treat reservation Indians with respect and the government to provide them with an education and assistance for their assimilation into U.S. society. Under Grant's peace policy, reservations were to serve as safe havens from the negative and corrupting elements found within American frontier society and were to give Natives time to embrace American civilization.

Despite all these intentions, warfare escalated after implementation of the peace policy. The philanthropists and reformers overseeing the OIA failed to reform the Indian Service or improve conditions on reservations. Moreover, neither the military nor the civilian branches of the government were able to prevent American settlers from trespassing onto Indian lands. Natives responded by leaving the reservations to reestablish their independence. Others periodically left their reservations to raid and hunt. Those who had never been forced onto reservations increased their resistance to the whole process. Convinced that the federal government was unable, or unwilling, to satisfy their needs, and determined to protect their cultural and political autonomy, Natives resisted, often by force of arms. This resistance had the effect of accelerating military engagements with Native groups and undermining support for the goals of Grant's peace policy.

The escalation of Indian wars during the 1870s led to closer collaboration between the military and civilian authorities over the conduct of Indian affairs. This trend lasted through the 1880s. Confinement of Natives to reservations remained the goal, and conflict often resulted. During the 1870s, the military fought the Modoc War (1872–1873) in California; the Red River War (1874–1875) against the Comanches, Kiowas, and Southern Cheyennes on the southern plains; and a protracted conflict with the Lakotas, Northern Cheyennes, and Northern Arapahos in South Dakota, Montana, and Wyoming.

Military Force and Strategy

The army of this period consisted of career officers and enlisted men. The retention of Civil War veterans promoted the rapid professionalization of the service and an effort by military leaders to create a modern army capable of waging a conventional war. Yet because commanders viewed warfare against the indigenous people of the West as a short-term challenge, they failed to prepare adequately for the style of conflict they actually faced. Indeed, the army underestimated the military abilities of Native peoples, and so the Indians scored some significant tactical victories.

In general, the army functioned more like a police force than a traditional army. In most cases, Natives chose not to engage in protracted battles and usually dispersed in the face of large numbers of troops. The military lacked the manpower to efficiently pursue and defeat its enemy in open combat. During the first years of the peace policy, the army chose to extend its limited numbers across the frontier in small military posts consisting of one or two companies. These outposts served as localized deterrents and as secure positions from which expeditions could be launched quickly to engage hostile groups or protect isolated groups of settlers. But this strategy was flawed, because a dispersed army proved unable to deploy troops effectively or efficiently.

The army responded by initiating winter campaigns and surprise attacks against Native villages. Designed to preempt Native attacks on the frontier, this tactic limited Native mobility by forcing men to defend women, children, and the elderly. These army engagements were more effective, but more violent as well. The military also exploited tribal rivalries to enlist the aid of Indian men as scouts to hunt down the enemies. These tactics brought some successes, but they did not end the Native campaigns of the late nineteenth century.

Improvements in transportation transformed military tactics. After completion of the first transcontinental railroad in 1869, four other rail lines connected the eastern United States with the western Pacific coast. Combined with the construction of supporting trunk lines, railroads facilitated the migration of settlers and improved military mobility and supply networks. Able to cover ground more quickly than Indians on horseback, the army engaged Natives from multiple directions and adjusted more efficiently to changing circumstances and weather conditions. These developments eventually wore down Native military resistance.

Railroads also sped up the destruction of the buffalo herds on the Great Plains; railroad companies hired buffalo hunters to help feed railway construction workers. Military leaders, who recognized the impact of bison hunting on Native subsistence, actively encouraged private citizens to hunt bison. Combined with a ready market for buffalo hides, army policy led to the extermination of the last great buffalo herd in 1885, and the near-extinction of the species.

In 1874 federal agent John P. Clum established the Apache police force at San Carlos Reservation in order to enforce his policies without escalating tension by calling in the army. Eventually, other Indian agencies adopted various types of Indian police forces to maintain order in the absence of the army. Finally, in 1878 Congress officially authorized the creation of Indian police forces on all reservations. The establishment of the Indian police ultimately improved the ability of the army to enforce Indian policy by freeing units from the direct supervision of reservations and the burden of protecting the Indian agencies and their agents.

The Final Subjugation

In 1886 the last major Native resistance to U.S. hegemony in the West ended when the great Apache leader Geronimo surrendered to Gen. Nelson A. Miles. Geronimo's surrender concluded twenty-five years of conflict with the Apaches in the U.S. Southwest. The so-called Apache Wars had begun in 1860–1863, the result of Apache anger over U.S. intrusion into their territory and efforts by the United States to end Apache raids against white settlements. It flared up again in 1872–1873, subsided briefly after Gen. George Crook's Tonto Basin Campaign (which also targeted the Yavapais), and resumed with campaigns against Apache leaders Victorio (1877–1880) and Geronimo (1881–1886). Throughout, the military used Apache scouts and soldiers, most drawn from bands no longer at war with the United States. At the close of active warfare, the army imprisoned many of the Apaches

in Florida for up to thirty years. Prisoners included those Apache allies who helped to defeat Geronimo's band. Geronimo's surrender essentially brought the era of the peace policy to an end.

One last event, however, ended the era of U.S. military conquest and Native armed resistance on an appropriately tragic note. On December 29, 1890, at Wounded Knee Creek on the Pine Ridge Reservation, members of the Seventh Cavalry, alarmed by the rise of the Ghost Dance movement among the Lakotas, opened fire on a band of Oglala Lakotas led by Big Foot, who was traveling to the Pine Ridge Reservation (also called the Pine Ridge Agency). Some 350 Lakotas (the numbers remain in dispute) lost their lives in an incident the army called an accident. An investigation concluded that soldiers opened fire after a weapon was discharged accidentally. Twenty of the soldiers involved in the massacre were awarded Congressional Medals of Honor.

From 1860 to 1890, the U.S. Army mounted large, coordinated campaigns against many Native tribes and forced resistant groups onto reservations. The army fought in nearly one thousand engagements, increased the number of frontier posts to consolidate and protect territory, and policed the reservations to prevent Native resistance. These actions transformed the lives of Native people in the West. By 1890 the Indian population in the United States had fallen to its historical low point of fewer than 250,000. Most of that population was confined to reservations located throughout the West and was forced to accept the federal government's acculturation programs, such as boarding schools. The end of this monumental struggle found the great herds of plains buffalo gone. Indian Country as a distinct place in the West had disappeared, and many aspects of Native life had been intentionally eradicated.

See also *Apache Wars (1860–1886); Assimilation and Acculturation; Black Hills; Board of Indian Commissioners; Bozeman Trail War (1865–1868); Buffalo; Civil War; Clum, John P.; Geronimo; Gold and Gold Rushes; Grant, Ulysses S.; Homestead Act of 1862; Miles, Nelson A.; Modoc War (1872–1873); Piegan Massacre; Railroads; Red River War (1864–1876); Reservations; Sand Creek Massacre; Sheridan, Philip; Sherman, William T.; Snake War; United States–Dakota War (1862); United States–Indian Wars, (1848–1891); U.S. Indian Policy: Congress and the Executive, 1845–1877; U.S. Indian Policy, Congress and the Executive, 1871–1934; U.S.–Mexican War (1846–1848); Victorio; Westward Migration; Wounded Knee Massacre (1890).*

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BIBLIOGRAPHY

- Bender, Averam B. *A Study of Jicarilla Apache Indians, 1846–1887*. New York: Garland Publishing, 1974.
- Bray, Kingsley M. *Crazy Horse: A Lakota Life*. Norman: University of Oklahoma Press, 2006.
- Brown, Dee. *Bury My Heart at Wounded Knee: An Indian History of the American West*. New York: Henry Holt, 2001.
- Cutler, Bruce. *The Massacre at Sand Creek*. Norman: University of Oklahoma Press, 1994.
- Decker, Peter R. *"The Utes Must Go!": American Expansion and the Removal of a People*. Golden, Colo.: Fulcrum Publishing, 2004.
- Dippie, Brian W. *The Vanishing American: White Attitudes and U.S. Indian Policy*. Lawrence: University Press of Kansas, 1982.
- Hagan, William T. *United States–Comanche Relations: The Reservation Years*. Norman: University of Oklahoma Press, 1990.
- Hook, Jason, and Martin Pegler. *To Live and Die in the West: The American Indian Wars, 1860–90*. London: Fitzroy Dearborn, 2001.
- Hutton, Paul Andrew. *Phil Sheridan and His Army*. Lincoln: University of Nebraska Press, 1985.
- Lavender, David. *Let Me Be Free: The Nez Perce Tragedy*. New York: HarperCollins, 1992.
- Prucha, Francis Paul. *American Indian Policy in Crisis: Christian Reformers and the Indian, 1865–1900*. Lincoln: University of Nebraska Press, 1979.
- . *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Utley, Robert M. *Frontier Regulars: The United States Army and the Indian, 1866–1891*. Lincoln: University of Nebraska, 1984.
- . *The Indian Frontier of the American West, 1846–1890*. Albuquerque: University of New Mexico Press, 1984.
- Yenne, Bill. *Indian Wars: The Campaign for the American West*. Yardley, Penn.: Westholme Publishing, 2006.

Military Posts and Forts

In its dealings with the various Native American tribes, the United States government made extensive use of military posts that ranged from large, well-protected fortresses to temporary camps having no formal defenses. The government used those posts not only to protect area civilians, but also to serve as bases for military operations against the Natives; to protect the Indians from settlers, traders, or other tribes; and to control transportation routes and various resources. At times, certain forts were the sites of treaty negotiations, and some housed Indian prisoners of war.

Early Forest and Prairie Forts

Shortly after the American Revolutionary War (1775–1783), the new United States government began its attempts to subdue and control the Indian tribes of the Old Northwest with only a handful of military posts, chiefly located in the Ohio River Valley. Among these were Forts Pitt, McIntosh, Harmar, Finney, Steuben, and Knox. The government nego-

tiated treaties at Forts McIntosh and Finney with several tribes. Later, campaigns by General Anthony Wayne in western Ohio opened more land to white settlement, eliminating the need for a number of those first forts. A new line of forts replaced them as the frontier progressed westward and northward. Between 1789 and 1794, the army constructed Forts Washington, Hamilton, St. Clair, Jefferson, Greenville, St. Mary's, Adams, Defiance, and Wayne as part of its efforts to assert control over the tribes of that region.

Government trading posts, known as factories, came into operation in the mid-1790s to provide goods to the tribes at fair prices, and the military established several posts to protect those factories and drive illegal British traders from the frontier. American control in the western Great Lakes region crumbled, however, during the War of 1812 (1812–1814), as British troops and hostile Indians captured forts there. After the war, the United States began to reestablish its sovereignty by rebuilding Fort Dearborn and constructing Fort Howard and Forts Edwards, Armstrong, and Crawford along the Mississippi River. To extend its active control farther north and west, the government established Fort Atkinson on the Missouri River and Fort Snelling on the upper Mississippi in 1819.

In the South, the new nation faced similar problems. The army maintained Forts Fidius, Wilkinson, Telfair, and James along the frontier in Georgia, but settlers continually pushed into Indian lands there and in Tennessee, Alabama, and Mississippi. Major conflict did not erupt until the War of 1812, however, when the nativist Red Stick faction of Creeks engaged in a bitter war with the encroaching whites. Andrew Jackson's decisive defeat of that group in 1814 brought formal warfare to an end, but sporadic fighting continued, in which Forts Scott and Montgomery figured prominently.

When the U.S. government began removing tribes to territory west of the Mississippi River, most of the southern tribes vacated their lands without further fighting. The Seminoles, however, refused to remove. During bloody and inconclusive warfare between the United States and the Seminoles from 1835 to 1856, the government built over 150 forts in Florida and Georgia, mostly small, temporary posts. When Osceola and other Seminole leaders were eventually captured, they were interned in Fort Moultrie in Charleston.

The removal of large numbers of Cherokees, Chickasaws, Choctaws, Creeks, and Seminoles to lands in Indian Territory (present-day Oklahoma) necessitated the construction of military posts for their protection from the Plains tribes just to the west. The government built the first

such post, Fort Smith, in 1817. Two others, Forts Gibson and Towson, were built slightly farther west in 1824, with Fort Washita following in 1842.

Arrangement and Types of Posts

During the mid-nineteenth century, several of the nation's leaders proposed various plans to provide a relatively stable, well-guarded frontier line separating the settled agricultural areas from the lands unsettled by Americans to the west. Some dubbed this line the "Permanent Indian Frontier," but others took a more realistic view of it as a perimeter that would inevitably advance westward as new lands were settled. There was general agreement on the need for a protective series of forts separating the two regions. By the early 1840s, the line consisted of Fort Wilkins and Fort Snelling in the north and a series of other posts, including Fort Leavenworth, extending down to Fort Washita.

Government leaders also disagreed on the question of whether to build a few large posts, holding six hundred to one thousand men, or a multitude of smaller ones. Advocates for large posts believed that the ability to send a powerful striking force against hostile Indians made such forts much more effective. Those who wanted greater numbers of small military posts scattered throughout troubled areas believed this would allow more immediate response to conflicts between settlers and Native Americans.

Almost from the beginning of large-scale white settlement of the Great Plains and mountain regions in the 1840s, the government opted for a pragmatic blend of the two approaches. They built a number of large forts, often in groups or lines, and the commanders of those installations established smaller posts at strategic points. The smaller posts served well as bases for the army's constant patrols and as protection for transportation routes.

There was no single style of construction for the posts in the trans-Mississippi region. Some, such as Fort Craig in New Mexico, were built as actual fortresses with stockade or adobe walls, bastions, towers, and ditches. As time went on, more and more of the major forts were of a standardized open style, with barracks and administrative buildings surrounding a parade ground, and no walls, as Indians seldom attacked a major post. Minor posts ranged from tents and a corral to permanent stone structures.

The Great Plains and Beyond

The westward progression across the Great Plains by emigrants following the Oregon Trail and other established

routes and by the construction of transcontinental rail lines brought inevitable conflict between the intruders and the nomadic Plains tribes. As elsewhere, the government established posts at strategic points throughout the region and into the mountains and the desert Southwest.

To offer protection to settlers passing along the Oregon Trail, the government built Fort Kearny in present-day Nebraska in 1848 and bought Fort Laramie from private interests in 1849. Forts Atkinson, Union, and Larned, built during the 1850s, offered similar protection to travelers along the Santa Fe Trail. Fort Riley guarded the eastern end of both routes.

In Texas the government constructed the Indian Frontier Line in 1849 to protect settlements, which had reached the central portion of the state. This line stretched from Fort Worth in the north to Fort Inge near the Rio Grande, with five other posts in between. The army started a new, branching line of forts in 1851, generally along the stage route from the Red River to El Paso, consisting of Fort Belknap and nine other major posts out to Forts Davis and Bliss in far West Texas.

After a shift of attention away from the frontier during the Civil War (1861–1865), the army returned its major focus to the western Indians in 1866. Construction of posts along the Bozeman Trail to Montana helped spark Red Cloud's War (1865–1868). Unable to defeat the Sioux, the government agreed in 1868, in the second major Indian treaty signed at Fort Laramie, to abandon the offending forts. In Texas, continuing raids by Kiowa and Comanche war parties from reservations in western Indian Territory prompted construction of additional posts to augment the older ones. Forts Richardson, Griffin, and Concho were built across northern Texas in the first few years after the Civil War.

Finding the defensive tactics of patrols from the major forts and minor posts throughout the Plains region inadequate to stop Indian raids on settlements and ranches, the army turned to large-scale offensives against the villages of the uncooperative tribes. The forts on the Plains served as bases for those offensives that, by the late 1870s, ended most Indian resistance.

In the desert Southwest, the government made use of forts as bases for military operations against hostile Navajo and Apache tribes as well as using them to watch over reservations and protect settled areas. A series of posts went up along the upper Rio Grande in New Mexico in the early 1850s. Additional forts were built in New Mexico and Arizona in the next three decades. In the Victorio campaign

in 1880, the army effectively used a network of small, temporary posts to control the limited water supplies of southwest Texas and New Mexico, a strategy that helped defeat the Apache. When the last hostile Apaches under Geronimo surrendered in 1886, they were kept as prisoners in Forts Pickens and Marion in Florida, and later at Fort Sill, much as captured Sioux had been interned at Fort Snelling in the early 1860s.

In other parts of the West—the Rocky Mountains region, California, and the Northwest—the government used forts in similar fashion, as bases for operations against hostile Indians and as security for settlements or reservations.

With the end of the United States–Indian Wars in 1890, the importance of military posts in relations between the government and the Native Americans began to come to an end as well.

See also *Army, United States; Bozeman Trail War (1865–1868); Factory System; Indian Territory; Military Policy of the United States, 1776–1860; Military Policy of the United States, 1860–1890; Removal; Texas; Victorio; War of 1812 (1812–1814); Wayne, Anthony; Westward Migration.*

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BIBLIOGRAPHY

- Field, Ron. *Forts of the American Frontier 1820–91: Central and Northern Plains*. Oxford: Osprey Publishing, 2006.
- . *Forts of the American Frontier 1820–91: The Southern Plains and Southwest*. Oxford: Osprey Publishing, 2006.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- . *A Guide to the Military Posts of the United States 1789–1895*. Madison: State Historical Society of Wisconsin, 1964.
- Tate, Michael L. *The Frontier Army in the Settlement of the West*. Norman: University of Oklahoma Press, 1999.
- Uglow, Lloyd M. *Standing in the Gap: Army Outposts, Picket Stations, and the Pacification of the Texas Frontier, 1866–1886*. Fort Worth: Texas Christian University Press, 2002.
- Utey, Robert M. *Frontier Regulars: The United States Army and the Indian 1866–1891*. New York: Macmillan Publishing Company, 1973.
- . *Frontiersmen in Blue: The United States Army and the Indian, 1848–1865*. New York: Macmillan Publishing Company, 1967.
- . *The Indian Frontier of the American West, 1846–1890*. Albuquerque: University of New Mexico Press, 2003.
- Wooster, Robert. *The Military and United States Indian Policy, 1865–1903*. New Haven, Conn.: Yale University Press, 1988.

Mining and Mineral Rights

Collectively, Indian tribes are the third largest owners of mineral resources in the nation, behind only the federal government and the railroads.

Navajo miners work at a uranium mine in 1953. Many reservation lands are rich in minerals. While the federal government for years maintained control over much of the mining done on these lands, Native Americans assumed increasing control over development of the mineral resources during the 1900s.



Indian lands are estimated to contain about 3 percent of known U.S. oil and gas reserves, up to 30 percent of the coal west of the Mississippi River, as much as a third of the country's uranium, and a wide variety of other minerals. In the first decade of the twenty-first century, the U.S. Department of the Interior administered more than 3,800 mineral leases on nearly two million acres for more than forty tribes. In fiscal year 2007, it distributed more than \$465.5 million in royalties and other mineral revenues.

Tribes traditionally used mineral resources in tools, weapons, medicine bundles, pottery making, and a variety of similar uses. Historically, Indian mining may have been quite widespread; ancient turquoise mines, for example, have been located in five western states. Tribes in New Mexico mined turquoise for ornamentation and lead for use in pottery glazes. Tribes in the upper Midwest mined pipestone, flint, and copper, and by the late eighteenth century mined and smelted lead for European markets and for use in ammunition. Spanish settlers in the Southwest also mined lead for bullets, and they sought gold and silver.

The history of American mining and mineral rights on Indian lands is generally one of increasing tribal participation and control. American mining on Indian lands officially

began during the allotment and assimilation era of the late nineteenth and early twentieth centuries under a confusing assortment of federal laws. In subsequent federal policy eras, the mining laws for Indian lands were replaced or augmented to expand the role that Indian tribes play in the development of their mineral resources.

The Reservation Era

Large-scale mining on Indian lands was introduced by non-Indians as they spread across the western United States. Gold rushes in Colorado and Nevada in the late 1850s brought non-Indian miners streaming in, and the mining frontier quickly spread across the West, encroaching on Indian lands. The hunger for gold not only attracted miners and settlers, but also produced new pressures for land. President Ulysses S. Grant's "peace policy," instituted shortly after the end of the Civil War, emphasized placing Indians on reservations, where they would be separated from non-Indian settlements and taught agrarian pursuits. But even after reservations were set aside, new mineral discoveries sparked new conflicts. The discovery of gold in the Black Hills of the Great Sioux reservation in 1874, for example, led directly to the federal government taking the Black Hills from the Sioux.

Often, the federal government was aware of the vast mineral deposits on Indian lands when reservations were created. Nevertheless, most of the treaties and agreements that created the reservations said nothing about the minerals. In 1938 in *United States v. Shoshone Tribe of Indians*, the Supreme Court ruled that unless the federal government had expressly reserved the mineral resources for itself, those resources belonged to the Indian tribes on the same basis as the land. In virtually all instances, then, the minerals on and under reservation lands were held in trust for the tribes.

The Allotment Era

In 1887 Congress authorized the allotment of Indian reservations into relatively small, individual parcels and the disposal of the remaining “surplus” lands to homesteaders. In some instances, the subsurface minerals were reserved for the tribes when the tribal lands were allotted or when the surplus lands were sold. In most instances, however, ownership of the minerals passed to the allottees with their allotments, or to the homesteaders who purchased the surplus lands. Non-Indians acquired even more of the minerals from allottees who sold or forfeited their land once they received fee title after the twenty-five-year trust period on allotments expired. Between 1887 and 1934, some ninety million acres of tribal lands, most including minerals, passed into non-Indian ownership. Millions of additional acres remained trust allotments, with the result that today about one-third of Indian mineral revenues are generated from allotments.

Congress first authorized non-Indian mining of tribal mineral resources in 1891. With the consent of the Department of the Interior, tribes living on reservations set aside by treaty or agreement could lease their minerals for ten years, but only on lands not needed for allotments or agriculture.

With the onset of World War I and the nation’s greater need for mineral production, Congress expanded the leasing of Indian lands. Arguing that tribal minerals were essential to the war effort and that Indians could not manage their own resources efficiently, Sen. Henry F. Ashurst, D-Ariz., oversaw enactment of a new leasing law in 1919. That statute authorized twenty-year leases of Indian lands in nine states for certain minerals (the law was expanded in 1926 to include most minerals other than oil and gas). No tribal consent was required, and states were expressly allowed to tax the production. As the supply of good mining lands available under the 1891 and 1919 statutes began to dwindle, Congress passed new statutes in 1924 and 1927 that amended the original 1891 statute to allow oil and gas leases on tribal

lands, but only with tribal consent. The lease term was ten years and as long thereafter as the oil and gas were produced in paying quantities. Not only was state taxation permitted, but the oil companies were also authorized to deduct state taxes from the royalties they owed the Indian tribes.

The 1891 statute also authorized mineral leases on allotments that were not needed for grazing or agriculture, although generally only if the allottee was unable to work the land because of age or disability. A 1909 act removed these restrictions, broadly authorizing allottees to lease their lands for mining, subject to the approval of the Department of the Interior.

At the end of the allotment era, mineral leasing of tribal lands was governed by five separate statutes. All leases required the approval of the Department of the Interior. However, different acts applied to different types of mineral resources, and lease terms varied from statute to statute. Some acts applied to all tribal lands; others applied only to certain kinds of tribal lands or only in some states. Some required tribal consent to the lease; others did not. Some authorized state taxation; some did not.

The Reorganization Era

The allotment era officially ended with passage of the Indian Reorganization Act (IRA) of 1934, intended in part to revitalize tribal cultures and tribal governments that had been deliberately suppressed for half a century. Four years after passage of the IRA, Congress enacted the Indian Mineral Leasing Act (IMLA) of 1938. The legislation, suggested by Acting Secretary of the Interior Charles West, had three specific purposes: to provide uniformity of mineral leasing laws for tribal lands; to help achieve the IRA goal of revitalizing tribal governments; and to promote tribal economic development by ensuring that tribes received the greatest financial return on their mineral resources.

The IMLA did not repeal any of the existing mineral leasing laws, and some mining continues under those pre-1938 leases today. But any lease granted after 1938 had to comply with the IMLA procedures. The IMLA required tribal consent for all leases, as well as the approval of the secretary of the interior. Leases were granted on the basis of competitive bidding and payment of bonus considerations. All leases were granted for the same term: ten years and as long thereafter as the mineral was produced in paying quantities. Moreover, the statute expressly preserved the right of IRA tribes to lease their lands for mining in accordance with their IRA charters or constitutions.

To ensure that tribes received the greatest return on their minerals, the IMLA established a system of signing bonuses, rents, and royalties. Monetary payments were often lower than market value, however, and serious problems with federal mismanagement of royalties began to surface in the 1950s. In 1982 the Linowes Commission, appointed by the secretary of the interior, condemned the existing “honor system” of payments. It pointed to the theft, fraud, and underreporting being perpetrated by the mining companies, and the inadequate collection practices that were leading to underpayments of as much as 10 percent.

The IMLA was silent on state taxation, but the Supreme Court ruled in 1985 in *Montana v. Blackfeet Tribe of Indians* that the 1938 act did not authorize states to tax Indian royalties. Accordingly, the mining companies could no longer deduct Indians’ state taxes from the royalty payments.

The Termination Era

In the 1940s, the tribal reorganization and revitalization approach was replaced by a policy of rapid assimilation of Indians through a process of tribal termination. Although the termination era of federal Indian policy did not produce any new mining laws for Indian lands, the perceived national need for minerals during World War II and the cold war resulted in cases of federal self-dealing. In 1942, for example, the U.S. Bureau of Mines accepted assignment of a lease for helium-bearing gas on the Navajo reservation that the mining company did not wish to produce. The tribe was not informed of the transaction until after the assignment was effective, because the government, noting the wartime need for helium, wished to avoid the “complications” of involving the tribe. Similarly, in an effort to ensure a uranium supply for the Manhattan Project (the construction of the atomic bomb), the federal government authorized the survey and mapping of Navajo lands without informing, obtaining the consent of, or compensating the tribe.

The Self-Determination Era

In the early 1960s, the termination era began giving way to the modern era of tribal self-governance and self-determination. Presidents Lyndon B. Johnson and Richard M. Nixon both called for greater tribal participation in decision making, and in 1983 President Ronald Reagan promoted government-to-government relations and emphasized the need for greater tribal control over resources.

In keeping with this new federal policy, Indian tribal dissatisfaction with the IMLA of 1938 grew. The basic problems

with the IMLA were its lack of flexibility and the low economic return for the Indians. Tribes were tied to the original lease terms as long as the minerals were produced in paying quantities, and so they had little opportunity to bargain for lease terms or to participate in development decisions. Royalties were generally set at a flat rate rather than as a percentage, so that as minerals increased greatly in value during the energy boom of the 1970s, tribal mineral owners were unable to share in the spiraling wealth. To address these shortcomings of the IMLA, in the 1970s some tribes began to negotiate mineral development agreements with non-Indian companies. At first, the Department of the Interior approved several of these agreements, but in 1980 it decided it had no legal authority to do so.

Congress responded in 1982 by enacting the Indian Mineral Development Act (IMDA). Introduced by Sen. John Melcher, D-Mont., the IMDA was intended to increase tribal self-determination over mining activities and to maximize tribal financial returns on their mineral resources. To achieve those goals, the IMDA greatly expanded the options available to Indian tribes. Rather than restrict tribes to the standard lease form, as the IMLA did, the IMDA authorized Indian tribes, subject to the approval of the secretary of the interior, to enter into “any joint venture, operating, production sharing, service, managerial, lease or other agreement” for mining activities. The IMDA applied to all mineral resources in which the tribe owned “a beneficial or restricted interest,” which meant that the statute applied to tribal minerals reserved under allotted or off-reservation lands as well as to minerals under tribal lands. In addition, the IMDA authorized the inclusion of mineral resources belonging to allottees in a tribal agreement if the parties concurred and the secretary of the interior determined that participation was in the allottees’ best interests.

In deciding whether to approve a mineral agreement, the interior secretary must determine whether it is in the best interest of the entire tribe, taking into account the potential economic return and the potential environmental, social, and cultural effects on the tribe. The Department of the Interior remains responsible to the tribe if the non-Indian party violates the terms of an approved agreement, but the statute provides that “the United States shall not be liable for losses sustained by a tribe or individual Indian” under a mineral agreement. The IMDA thus provides that tribes may become partners in mineral development, but in doing so they assume the risk of loss.

The IMDA did not repeal or replace the Indian Mineral Leasing Act of 1938, and leases under that act and all previous statutes continue in effect today. Although tribes are free to continue leasing their minerals under the IMLA, it is little used. Many tribes have chosen to explore the options available under the IMDA. Even tribes that choose to lease their mineral resources generally prefer to negotiate leases under the IMDA rather than use the more restrictive lease form available under the IMLA.

The year after the IMDA was enacted, Congress attempted to address royalty management problems. The Federal Oil and Gas Royalty Management Act of 1983 (FOGRMA) was intended to strengthen information gathering, provide for inspections, and impose penalties for noncompliance. FOGRMA also authorized the secretary of the interior to enter into cooperative agreements with Indian tribes under which tribes would carry out many of the functions of the statute. Although some progress was made under the statute, few tribes had the technical and financial capabilities needed to enter into cooperative agreements, and theft and accounting errors remain serious problems.

In 2005, as part of a massive Energy Policy Act, Congress enacted the most significant change in the way tribes may develop their mineral resources since the IMDA was enacted in 1982. The Indian Tribal Energy Development and Self-Determination Act (ITEDSA) authorizes tribes to enter into energy resource agreements with the Department of the Interior. Once a tribe has an approved agreement with the Interior Department, it can enter into leases and other types of agreements for energy resource development, and it can grant rights-of-way for pipelines and electric transmission and distribution lines without having to obtain the approval of the secretary of the interior for each specific agreement or right-of-way. These tribal development agreements and grants of right-of-way may be for terms of no more than thirty years, except oil and gas leases, which tribes can authorize for the standard lease term of ten years and as long thereafter as the mineral is produced in paying quantities.

Like the IMDA, ITEDSA obligates the secretary to ensure protection of tribal rights and interests in cases in which any other party to a lease, agreement, or right-of-way violates the terms of the instrument or any applicable federal law. But also like the IMDA, ITEDSA provides that the federal government is not liable for any loss resulting from a lease or agreement entered into pursuant to a tribal energy resource agreement. And like the IMDA, ITEDSA authorizes tribes to take greater control over development of their

mineral resources, but at the same time requires tribes to assume more of the risk.

The energy resource agreements of ITEDSA are available to tribes at their option. The statute does not repeal or replace either the IMDA of 1982 or the IMLA of 1938. Indian tribes remain free to use whichever statute best meets their needs.

See also *Allotment in Severalty; Black Hills; General Allotment Act (Dawes Act) of 1887; Gold and Gold Rushes; Indian Mineral Development Act (1982); Indian Reorganization Act (1934); Indian Tribal Energy Development and Self-Determination Act of 2005; Oil and Gas; Self-Determination; Termination and Restoration.*

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BIBLIOGRAPHY

- Ambler, Marjane. *Breaking the Iron Bonds: Indian Control of Energy Development*. Lawrence: University Press of Kansas, 1990.
- Eichstaedt, Peter H. *If You Poison Us: Uranium and Native Americans*. Santa Fe, N.M.: Red Crane Books, 1994.
- Federal Oil and Gas Royalty Management Act of 1983*, Public Law 97-451, 97th Cong., 2nd sess. (January 12, 1983).
- Goodman, Linda J., and Daisy F. Levine. "The Mines of the Cerrillos District, New Mexico: Myths and Realities." *El Palacio* 96, no. 1 (1990): 20-37.
- Indian Mineral Development Act of 1982*, Public Law 97-382, 97th Cong., 1st sess. (December 22, 1982).
- Indian Mineral Leasing Act of 1938*, 25 U.S.C. §§ 396a-396g.
- Indian Tribal Energy Development and Self-Determination Act of 2005*, Public Law 109-58, 109th Cong., 1st sess. (July 29, 2005).
- Kay, Jeanne. "Indian Responses to a Mining Frontier." In *The Frontier: Comparative Studies*, 2:193-203. Norman: University of Oklahoma Press, 1979.
- McDonnell, Janet A. *The Dispossession of the American Indian, 1887-1934*. Bloomington: Indiana University Press, 1991.
- Montana v. Blackfeet Tribe of Indians*, 471 U.S. 759 (1985).
- Royster, Judith V. "Mineral Development in Indian Country: The Evolution of Tribal Control over Mineral Resources." *Tulsa Law Review* 29 (1994): 541.
- United States v. Shoshone Tribe of Indians*, 304 U.S. 111 (1938).
- United States v. Sioux Nation of Indians*, 448 U.S. 371 (1980).
- U.S. Minerals Management Service. "Facts and Figures 2003," www.mms.gov/ooc/newweb/publications/2003.
- . "Statistics," www.mrm.mms.gov/MRMWebStats.

Mission Indians

The term *Mission Indians* refers to those Native groups who in the eighteenth and nineteenth centuries experienced Spanish colonialism through their close relationship with twenty-one Franciscan missions, but who retain important social, cultural, and political identities. Mission Indians are the descendants of several southern California Indian communities. The primary groups are the Chumashes,

Coastanoans, Dieguenos, Tongvas, Juanenos, and Luisenos. Presently, Mission Indians live on reservations and *Rancherias* throughout southern and central California. Their reservations include the San Manuel Band of Mission Indians, Cabazon, Pala, Morongo, Barona, Juaneno, Twenty-Nine Palms, Pechanga, and La Jolla.

Between 1769 and 1834, Franciscan missions dotted the countryside of California, from modern-day San Diego to San Francisco. Franciscan priests brought California Indians to the missions to teach them Catholicism, agricultural labor, and European domesticity and family life. Although the missions produced significant cultural changes, they also became a center of Indian political activity. On the one hand, missionaries permitted Indians to elect their own leaders, known as *alcaldes*, who acted as intermediaries between the priests and Indian populations. *Alcaldes* had to maintain a difficult balancing act because they not only organized Indian work crews but sometimes administered corporal punishment to other Indians. However, these men adhered to the demands of their communities, such as overseeing food production and distributing economic resources.

Mission Indians engaged in overt resistance to Franciscan authority. Rebellions at Missions San Diego, San Gabriel, and others demonstrated the Indians' deep anger about Spanish colonialism in general, as well as about the appropriation of labor, religious repression, and corporal punishment in particular.

After California's independence from Spain in 1821, Mexican officials began to dismantle its mission system. Officially completed in 1834, the process provided Indians with opportunities—and problems. Although secularization (privatizing mission economic resources) was supposed to protect California Indians and provide them with land and animals, corruption undermined these goals. The officials administering secularization often took land and failed to provide the necessary resources. Meanwhile, Mission Indians gravitated toward new living areas. Some flocked to towns, such as Los Angeles, to find work. Others moved to the private ranches of wealthy Mexican landowners and engaged in agricultural labor. Many others retreated to the mountains and areas not yet settled by Mexicans to gain a degree of political and economic independence. Mission Indians in the outlying areas of California's interior raided Mexican ranches for horses, which they traded as far away as New Mexico.

During the U.S.-Mexican War (1846–1848), Mission Indians encountered opportunities to enhance their political clout and combat the terrible violence. In Los Angeles, a

group of Tongvas organized a company to fight against Mexico. Such efforts demonstrated the determination of southern California Indians to exercise political autonomy and chart a course for themselves after the war. However, another event more accurately portended the political and social position of Mission Indians. In 1845 Americans accused the Luisenos, led by Manuelito Cota and Pablo Apis, of killing eleven Hispanos near Agua Caliente. A Mexican force retaliated and killed thirty-three Luisenos in February 1847.

U.S. Policy toward Mission Indians

Mission Indians did not fare well after the U.S. victory over Mexico in 1848. In 1850, the year California became a state, the U.S. Senate dispatched three treaty commissioners to California. They signed several treaties with California Indians, including two with Mission Indians. These treaties set aside land for the Indians and required the United States to provide them with domesticated livestock, farm tools, and schools. However, the U.S. Senate did not ratify these treaties, leaving California Indians without federal protection of their land.

In southern California, two important events demonstrated the state's manipulation of the Indians, as well as the diminished sovereignty of their tribes. In 1850 the state passed the Act for the Government and Protection of Indians, which outlawed certain Indian practices (stealing horses and burning the prairie), established vagrancy clauses for Indians without a work pass, and permitted the indenture of Indian children. In Los Angeles, local law enforcement officials often auctioned off Indian prisoners to the highest bidder. Also in 1850, the state taxed the land held by the Cahuillas, Quechans, Cocopas, and Cupenos. The next year, Antonio Garra Sr., a Cupeno, rallied southern California Indians against this tax and, in the process, attempted to unite Indians in southern California against state encroachment on their sovereignty. Meanwhile, Cupenos from Agua Caliente attacked Warner's Ranch (in 1844 Jonathan Trumbull Warner obtained grants from the state governor for more than 26,000 acres in the San Jose Valley), destroyed property, and killed four Americans. In response, the state militia launched an attack against the southern California Indians, eventually destroying Agua Caliente and arresting Garra. In January 1852, state officials executed Garra and continued to impose the tax.

Mission Indians lived on the fringes of U.S. towns and cities for the next twenty years, turning to wage labor to provide food and clothing for their families. Yet they also

clung tenaciously to their lands, which they held legally under the Mexican land grant system. Americans, however, frequently ignored these grants and either squatted on Mission Indian land or usurped the territory.

In the 1870s, U.S. policy toward the Indians in southern California began to change. In 1870 the United States established a reservation at San Pasqual Pala, and between 1875 and 1877 it created thirteen reservations for the Mission Indians—the Kumeyaays, Luisenos, Serranos, Cupenos, and Cahuillas. Altogether, these reservations covered 130,000 acres. In 1891 Congress passed the Act for Relief for Mission Indians, which established fourteen new reservations, including the San Manuel Band's reservation near present-day Highland, California. By 1907 the United States had enlarged several of the reservations.

Although the federal government recognized an Indian land base in California, it prevented the Mission Indians from effectively managing their resources. The Office of Indian Affairs (OIA) was isolated from many of the Mission Indian communities in southern California, and the missions were underserved by the government. In fact, the primary administrative seat for reservations was located in San Bernardino, California, some one hundred miles from the reservations. Thus, if a Mission Indian wanted to irrigate his land or needed medical attention, he had to make the long trip to San Bernardino for these services.

During the late nineteenth and early twentieth centuries, the federal government looked after the education, land, and water of Mission Indian reservations, but it hardly performed adequately. The day schools it established for Mission Indians after 1881 frequently met with their resistance. The school calendar conflicted with the seasonal work activities of Mission Indian families, and the schools proved unhealthy. At one time, influenza struck 80 percent of the student population. On occasion, the Indians' resistance turned violent. In 1895, for example, Venturo Molido of Pechanga burned down a school and assassinated the teacher. Earlier, in 1892, the federal government had established a Mission Agency boarding school in Perris, California, but it suffered from many of the same problems as the day schools.

Land issues also played a prominent role in Mission Indian–federal relations. The fourteen reservations established after 1891 sat on arid, barren lands that lacked adequate water supplies. At the same time, the federal government undermined self-sufficiency by granting alternate rights-of-way to railroad companies on or near reservations. Furthermore, the federal government was impotent to pro-

tect Mission Indians from land squatters. Another source of anger for the Indians was allotments. Beginning in 1893, the federal government granted small land allotments in severalty—typically, eight to ten acres—to Mission Indians at Rincon, Morongo, and Pala. These actions so angered the Mission Indians that some resisted allotment. The Kumeyaays, for example, threatened to kill any government officials who attempted to allot their lands.

Land issues continued to complicate Mission Indian life in the twentieth century. In 1901 the Supreme Court awarded ownership of the Cupeno village at Warner's Hot Springs to former California governor John Downey. In response, non-Indians formed the Sequoya League and lobbied for the Cupenos. Although it failed to restore the land at Warner's to the Cupenos, the league helped secure a home for the Cupenos in the Pala Valley in 1902.

Water rights also complicated the relationship between Mission Indians and the U.S. government. Beginning in 1906, the federal government built irrigation ditches on Mission Indian lands, thereby generating several problems. For one thing, the irrigation canals were often inadequate and expensive. For example, an irrigation canal at Pechanga cost more than \$18,000 and failed to deliver water to needy communities. The federal government also failed to prosecute non-Indians who appropriated Mission Indian water. Moreover, it punished the Mission Indians for destroying the ditches of non-Indians who stole water.

Overall, the confusing and poorly managed land and resource policies of the United States produced a series of political responses from the Mission Indians. Allotment was at the forefront of their problems. In the 1920s, Mission Indians and Jonathan Tibbet, a non-Indian from Riverside, California, formed the Mission Indian Federation (MIF) to bring legal challenges against the federal government's allotment policy and to promote the participation of Native women in tribal politics. In 1931 MIF president Adam Castillo (Cahuilla) informed the commissioner of Indian affairs that government officials sometimes defrauded Mission Indians in the allotment process.

Reform and Political Mobilization

As it did elsewhere in Indian Country, the 1930s offered the promise of reform and respect for cultural pluralism in southern California. Under Commissioner John Collier, the OIA promoted American Indian economic development and political reorganization. The Indian Reorganization Act of 1934 (IRA) provided a framework for American Indians

to create tribal governments and corporations. Eleven southern California Indian reservations eventually adopted IRA constitutions, including San Pasqual. Many other communities, however, created their own constitutions and forms of government apart from the IRA. Among these were Pala, La Jolla, and Twenty-Nine Palms.

The IRA also created friction between Mission Indian communities. Adam Castillo and the MIF opposed the IRA because they believed it threatened to increase government paternalism in American Indian communities. Based on the government's mishandling of Mission Indian land, water, and education, such a response is easy to understand.

Castillo and the MIF continued to lobby against federal mismanagement and oversight during the onset of termination policy in the 1950s. Federal officials were determined to sever the trust relationship between American Indians and the United States. The MIF campaigned in favor of termination, because it believed the policy would free Mission Indians from government control. Other communities opposed it. The division soon found its way into southern California community and reservation governments, and councils divided into pro-MIF and anti-termination camps.

Conditions were more desperate in northern California, where forty-five communities were terminated. By contrast, only one southern California community—the Serrano community of Mission Creek in Riverside County—underwent termination. Two factors contributed to this disparity. First, the untimely death of Adam Castillo in 1953 effectively ended the MIF. Second, Mission Indians in the south recognized the dangers that termination posed and rallied against it.

In the 1960s, prominent Mission Indians participated in the civil rights movement. On another front, Cahuilla Indian Rupert Costo formed the American Indian Historical Society in 1968, and for the next twenty years he helped publish several books on California Indian topics, including the controversial *The Missions of California: A Legacy of Genocide* (1987) and the journal *Indian Historian*.

Economic Growth

The close of the twentieth century witnessed an economic renaissance, largely the result of Indian gaming. The move toward gaming began in 1980 when the Cabazon Band opened a card club. Law enforcement officials from the nearby town of Indio as well as Riverside County responded by hounding the club for illegal gambling. In response, the band sued the county of Riverside. In the landmark court case

California v. Cabazon Band of Mission Indians (1987), the Supreme Court found in favor of the Cabazon Band, a decision that enabled them to operate gambling establishments without state oversight. Although the Indian Gaming and Regulatory Act of 1988 circumscribed Indian sovereignty and gaming rights by forcing American Indian governments to negotiate compacts with state governments when operating Las Vegas-style casinos (class III gaming), the conditions for economic growth did improve among the Mission Indians.

Gaming also provided Natives with the financial means to participate in the political process, a development that bore fruit in 2000 when the state of California passed Proposition 1A, enabling California Indians to operate video slot machines. Mission Indians have since been at the forefront of Indian gaming, building palatial casino resorts that rival those in nearby Las Vegas, Nevada. Not without controversy, the casinos have enabled Mission Indians to diversify their economies, provide jobs for Indians and non-Indians in southern California, and engage in cultural renewal (specifically language revitalization programs), all of which bear witness to the growing strength of Mission Indians in California.

See also *Allotment in Severalty*; *California Indians*; *California v. Cabazon Band of Mission Indians* (1987); *Collier, John*; *Education: Boarding Schools*; *Education: Reservation Schools*; *Gaming*; *General Allotment Act (Dawes Act) of 1887*; *Indian Gaming Regulatory Act (1988)*; *Indian Reorganization Act (1934)*; *Indian Rights Movements*; *Intertribal Relations*; *Mexico, Indian Policy of*; *Mission and Missionaries*; *Spain, Indian Policy of*; *Termination and Restoration*; *Water Rights*.

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BIBLIOGRAPHY

- Almquist, Alan, and Robert Heizer. *The Other Californians: Prejudice and Discrimination under Spain, Mexico and the United States to 1920*. Berkeley: University of California Press, 1977.
- California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987).
- Cook, Sherburne. *The Conflict between the California Indian and White Civilization*. Berkeley: University of California Press, 1976.
- Costo, Rupert, and Jeannette Henry. *Natives of the Golden State: The California Indians*. San Francisco: Indian Historian Press, 1995.
- Forbes, Jack D. *Native Americans of California and Nevada*, Rev. ed. Happy Camp, Calif.: Naturegraph Publishers, 1993.
- Hackel, Steven. *Children of Coyote, Missionaries of Saint Francis: Indian-Spanish Relations in Colonial California, 1769–1850*. Chapel Hill: University of North Carolina Press, 2005.
- Heizer, Robert, ed. *Handbook of North American Indians: California*. Washington, D.C.: Smithsonian Institution Press, 1978.
- Hurtado, Albert. *Indian Survival on the California Frontier*. New Haven, Conn.: Yale University Press, 1988.

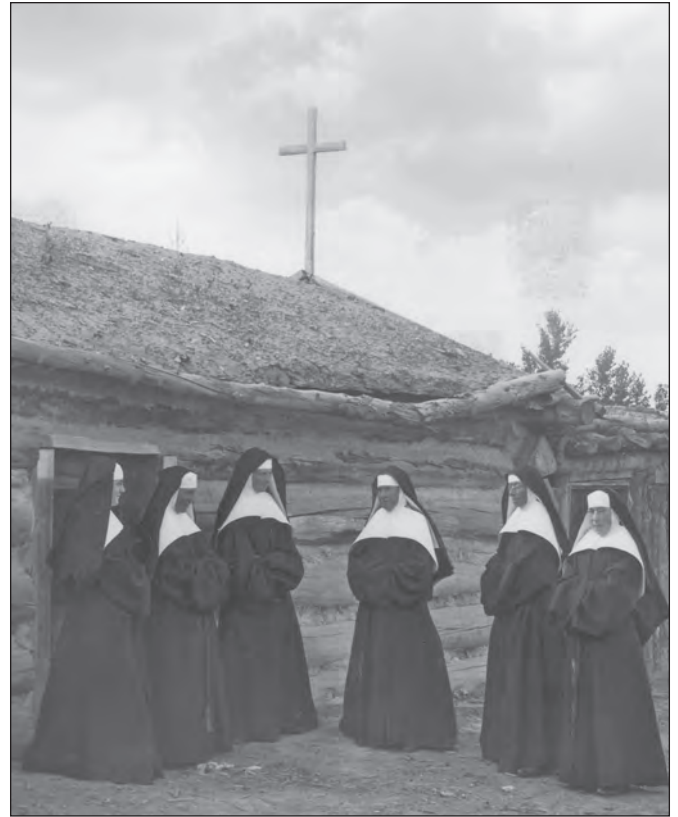
- Hyer, Joel. *"We Are Not Savages": Native Americans in Southern California and the Pala Reservation, 1840–1920*. East Lansing: Michigan State University Press, 2001.
- Magliari, Michael. "Free Soil, Unfree Labor: Cave Johnson Coutts and the Binding of Indian Workers in California, 1850–1867." *Pacific Historical Review* 73 (August 2004): 349–389.
- Phillips, George H. *"Bringing Them under Subjection": California's Tejon Indian Reservation and Beyond, 1852–1864*. Lincoln: University of Nebraska Press, 2004.
- . *The Enduring Struggle: Indians in California History*. San Francisco: Boyd and Fraser, 1981.
- . *Indians and Indian Agents: The Origins of the Reservation System in California, 1849–1852*. Norman: University of Oklahoma Press, 1997.
- Rosenthal, Nicolas G. "The Dawn of a New Day? Notes on Indian Gaming in Southern California." In *Native Pathways: American Indian Culture and Economic Development in the Twentieth Century*, edited by Brian C. Hosmer, Colleen O'Neill, and Donald L. Fixico, 91–111. Boulder: University Press of Colorado, 2004.
- Shipek, Florence Connolly. *Pushed into the Rocks: Southern California Land Tenure, 1769–1986*. Lincoln: University of Nebraska Press, 1987.

Missions and Missionaries

Missionary work in the Americas began soon after the arrival of the Spanish and became the foundation for one of the primary European conquest strategies. Some missionaries laid the groundwork for what became Manifest Destiny, establishing as part of their teachings the divine right of European settlers in the Americas to spread their civilization across North America and "raise up" Native Americans to the heights of that civilization. Others were exceptionally critical of Europeans' underhanded and oftentimes cruel dealings with Indians.

Early Missionaries

The Dominicans arrived with the Spanish in the earliest days of exploration and colonization. While some of them became rich from the labor of the Indians, many became the most outspoken critics of Spanish treatment and oppression. For example, Friar Antonio de Montesinos was the first member of the clergy to publicly denounce the Spanish system, known as the *encomienda*. The Spanish monarchy set up the *encomienda* system to consolidate its colonial possessions, and Indians were placed in trusteeships under Spanish *encomenderos*. Under this system, Indians suffered chronic overwork and deprivation. Bartolomé de las Casas, who had been a Spanish conquistador before becoming a priest, was another Christian advocate for Indian rights. Las Casas, however, like many other missionaries, failed to understand or



Catholic nuns gather in front of the St. Labre mission in Ashland, Montana. The mission was built on land purchased by the diocese of Helena in 1884 to serve the Northern Cheyenne Indians who after removal refused to live on a reservation. A replica of the original three-room log cabin now stands on the property of the St. Labre Indian School, which today serves approximately 700 Indian children.

refused to contemplate how the introduction of Christianity disrupted Native cultures and lives.

The Jesuits arrived in Canada in the early seventeenth century to try to convert Indians to Christianity. One of the more prominent missionaries was Father Paul Le Jeune, who served as the superior of the Jesuit mission in Canada from 1631 to 1639. Although the Jesuits tried to discredit the religious beliefs and cultural practices of the tribes in which they worked, they did attempt to learn about the Indians with whom they interacted, including their languages and customs. The Jesuits' conversion efforts met with limited success. One factor that worked to their favor was their ability to demonstrate to Indians parallels between Catholicism and native traditional religions.

Franciscan missionaries worked among the Indian peoples in southwestern North America. Their efforts were greeted with significant hostility, especially from the Pueblos. The missionaries forbade the practice of the Pueblo religion,

which the Pueblos saw as key not only to the survival of their ancestors but to their own survival on earth. Furthermore, the missionaries made the Pueblos build and maintain the Franciscan missionary buildings, including homes and churches. This animosity culminated in the Pueblo Revolt of 1680, in which a majority of the priests and nearly 400 Spanish settlers were killed. Later Franciscan missionaries experienced more success and were more benevolent toward the Indians with whom they interacted.

British colonists also conducted missionary activity in North America. Puritan missionaries established Indian “praying towns” in New England, where Indian Christians could come to live and work among fellow converts. Other Christian denominations, including the Quakers, the Baptists, the Methodists, and the Congregationalists, also set up mission operations in British North America. A Congregationalist, Eleazer Wheelock, founded a school for young Indians at Dartmouth. One of Wheelock’s pupils, a Mohegan named Samson Ocom, became a Presbyterian minister and served as a missionary throughout New England until his death in 1792. Another of Wheelock’s contemporaries, Samuel Kirkland, with whom he worked until 1770, served as a missionary to the Oneida and Tuscarora Indians. In 1793 Wheelock established the Hamilton-Oneida Academy to educate both white and Indian boys.

Indians resisted missionary methods in a variety of ways. Many Indians developed a merging of faiths that combined Christian tenets and symbols with those from their traditional religions. In the mid-eighteenth century, prophetic revitalization movements began among several Indian tribes; some called on followers to abandon the teachings and rituals of Christianity. Men such as Neolin (Delaware), Handsome Lake (Seneca), and Tenskwatawa (Shawnee) all preached a return to traditional Indian practices, although to varying degrees.

Involvement in Indian Affairs

Missionaries played a crucial role in shaping American Indian policy. In the early nineteenth century, the federal government appropriated funds to prepare Native Americans for assimilation into society; monies were supplied to open schools and provide teachers and pastors for many Indian tribes. The Second Great Awakening (1790s–1840s), a primarily Protestant religious revitalization movement that encompassed the whole of the United States, renewed interest among Christian churches in spreading their faith to Native Americans. By 1820 some thirty

missionary societies had been established in the United States, including the American Board of Commissioners for Foreign Missions (ABCFM), which was organized in 1810 in Boston. The ABCFM began sending missionaries to Indian tribes in 1816.

Missionaries became actively engaged in tribal affairs. For example, in the 1820s and 1830s several missionaries in the Southeast stood with the Indian nations with whom they were living and working and became influential opponents of the U.S. government’s plans to remove the eastern tribes across the Mississippi River. Their cohorts and sponsors in New England lobbied unsuccessfully against the Indian Removal Act of 1830. Missionaries followed the tribes that were removed and reestablished churches and schools in the Indians’ territories. Missionaries also fanned out into the West, attempting to convert individual Indians and establish Native congregations.

After the Civil War (1861–1865), Christian churches played a significant role in the evolution of President Ulysses S. Grant’s “Peace Policy.” Under Grant, the government allowed Christian denominations to supervise specific reservations and nominate individuals to serve as the Indian agent for that tribe. With that decision, missionaries acquired a considerable amount of control over the internal affairs of many tribes. Interdenominational tensions over how agencies were assigned and congressional jealousy over the loss of this important source of patronage eventually persuaded the government in the early 1880s to abandon mission control of the reservations. By the end of the century, the government had also ended its policy of funding mission schools. Despite the waning of direct influence on reservations, Christian leaders remained influential in U.S. policy decisions into the New Deal era, and many of the churches and missions established on reservations in the nineteenth century remain in operation today.

See also *Education: Mission Schools; Mission Indians; Religious Organizations and Indian Policy.*

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BIBLIOGRAPHY

- Axtell, James. *The Invasion Within: The Contest of Cultures in Colonial North America*. New York: Oxford University Press, 1986.
- Bowden, Henry Warner. *American Indians and Christian Missions*. Chicago: University of Chicago Press, 1981.
- Cave, Alfred. *Prophets of the Great Spirit: Native American Revitalization Movements in Eastern North America*. Lincoln: University of Nebraska Press, 2006.

- Gutiérrez, Ramón. *When Jesus Came, the Corn Mothers Went Away: Marriage, Sexuality, and Power in New Mexico, 1500–1846*. Stanford, Calif.: Stanford University Press, 1991.
- Hackel, Steven. *Children of Coyote, Missionaries of Saint Francis: Indian-Spanish Relations in Colonial California, 1769–1850*. Chapel Hill: University of North Carolina Press, 2005.
- Hurtado, Albert. *Indian Survival on the California Frontier*. New Haven, Conn.: Yale University Press, 1990.
- Jennings, Francis. *The Invasion of America: Indians, Colonialism, and the Cant of Conquest*. Chapel Hill: University of North Carolina Press, 1975.
- Kenton, Edna, and Reuben Gold Thwaites. *The Jesuit Relations and Allied Documents: Travels of the Jesuit Missionaries in North America, 1610–1791*. Whitefish, Mont.: Kessinger Publishing, 2005.
- Taylor, Alan. *The Divided Ground: Indians, Settlers, and the Northern Borderland of the American Revolution*. New York: Random House, 2006.
- Tinker, George. *Missionary Conquest: The Gospel and Native American Cultural Genocide*. Minneapolis, Minn.: Fortress Press, 1993.

Mississippi Band of Choctaw Indians v. Holyfield (1989)

See *Indian Child Welfare Act* (1978).

Mitchell v. United States (1980) (1983)

Mitchell v. United States ushered in a new era in which tribes were able to sue the federal government for breach of its trust responsibilities for Indian property.

The case began in 1971 when allottees on the Quinault reservation in Washington State, including Helen Mitchell, sued the federal government for mismanagement of timber resources, seeking monetary damages. Initially, the plaintiffs argued that the 1887 General Allotment Act (Dawes Act) gave the government a fiduciary responsibility over allotted lands. In 1979 the Court of Claims decided that the Dawes Act did create such a trust responsibility and allowed the Quinault allottees to sue for damages. But in 1980 the Supreme Court reversed and remanded the case to the Court of Claims, determining that the Dawes Act created only a limited trust relationship, which did not include a right to monetary damages. The Court also pointed out that the plaintiffs might find a source for damages in other legislation or regulations. (This decision is known as Mitchell I.)

In 1981 the Court of Claims ruled that various laws and regulations did give the government a fiduciary responsibility over timber management on allotments, permitting a suit for monetary damages. The Supreme Court affirmed the decision in 1983, noting, “In contrast to the bare trust created by the

General Allotment Act, the statutes and regulations now before us clearly give the Federal Government full responsibility to manage Indian resources and land for the benefit of the Indians.” The Court further ruled that “a fiduciary relationship necessarily arises when the Government assumes such elaborate control over forests and property belonging to Indians.” (This decision is known as Mitchell II.)

The courts have cited Mitchell II repeatedly in resource management cases. When Indians can demonstrate that laws and regulations give the government significant control over a resource, the courts have permitted Indians to bring charges of mismanagement and sue for damages. Even in situations in which Indians participate in resource management, the government may have a full fiduciary responsibility. However, the courts have rejected claims that hold the government to a fiduciary standard above that prescribed by the relevant laws and regulations. For example, the U.S. Court of Appeals for the Federal Circuit denied a Pawnee claim for the government’s failure to obtain the highest price for all leased gas. The court held that gas leasing regulations required only that “the major portion” of the gas be sold at the highest prices, not all of the gas. The Court of Appeals stated: “[The Department of the] Interior is not required to go beyond directives and leases which are consistent with the statutes and regulations.”

Nevertheless, the federal government is obliged to protect Indians’ fiduciary interests to the full extent of the relevant laws and regulations. In a later *Mitchell* decision, the Court of Claims rejected the government’s argument that the secretary of the interior served as an arbiter between Indians and lessees (loggers). Instead, the court ruled that “the Secretary could not assume the role of a neutral; his role was to speak for the Indians.” Thus the government is not always obliged to get the highest price, but it is obliged to pursue Indians’ interests zealously rather than weighing them against competing interests.

See also *General Allotment Act (Dawes Act) of 1887; Trust Responsibility Doctrine*.

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BIBLIOGRAPHY

- Mitchell et al. v. United States*, LEXIS 99 (U.S. Cl. Ct. 1988).
Navajo Nation v. United States, 263 F.3d 1325 (Fed. Cir. 2001).
Pawnee v. United States, 830 F.2d 187 (Fed. Cir. 1987).
United States v. Mitchell, et al., 445 U.S. 535 (1980). (Mitchell I)
United States v. Mitchell, et al. 463 U.S. 206 (1983). (Mitchell II)

Mitchell, David B.

David Brydie Mitchell (1766–1837) served as the U.S. Indian agent to the Creeks from 1817 to 1821. He helped to negotiate treaties in 1818 and 1821 and regulate trade between the Indian nation and the federal government.

Mitchell became agent to the Creeks after the death of Benjamin Hawkins, the agent who oversaw a civilization plan to transform Creek society. Mitchell, who earlier had served as mayor of Savannah, Georgia, a U.S. attorney, and governor of Georgia, became embroiled in several controversies while Indian agent. For most of his tenure, many Creeks and some Indian traders complained that Mitchell allowed Chief William McIntosh to use government payments to the Creeks for his own personal and political ambitions and to monopolize the lucrative Indian trade.

On January 22, 1818, Mitchell orchestrated the first of two treaties with the Creeks. In it, the Creeks ceded two tracts of land in exchange for \$120,000, to be paid over ten years, and two blacksmiths. Much of the annuity was transferred through McIntosh and his network of allied traders and village chiefs.

The negotiations for the second treaty with the Creeks, the 1821 Treaty of Indian Springs, were held at Chief McIntosh's homestead. In this treaty, the United States obtained Creek lands in exchange for \$200,000. During these negotiations, Mitchell also settled the dispute among the state of Georgia, the United States, and the Creeks over damages arising from the Creek Civil War (1813–1814).

Mitchell left his post in 1821 amid a scandal in which he was accused of helping smuggle African slaves into the United States. After Mitchell cleared his name, he served as a judge and then state senator.

See also *Creek Civil War (1813–1814)*; *Hawkins, Benjamin*; *McIntosh, William*.

Andrew K. Frank

BIBLIOGRAPHY

- Frank, Andrew K. *Creeks and Southerners: Biculturalism on the Early American Frontier*. Lincoln: University of Nebraska Press, 2005.
- Green, Michael. *The Politics of Indian Removal: Creek Government and Society in Crisis*. Lincoln: University of Nebraska Press, 1982.

Modoc War (1872–1873)

The historical events leading to the Modoc War (1872–1873) started taking shape as early as the 1840s, when

white settlers following the Southern Emigrant Trail began to spread throughout northern California and southern Oregon in search of land to farm. The Natives of the area, the Modoc Nation, numbered approximately three hundred, half of whom lived in what is now southern Oregon and half in northern California. In 1852 militia volunteers from California murdered several Modocs in retaliation for an Indian attack on a wagon train, although the Modocs were not the perpetrators. Skirmishes between the Natives and the encroaching settlers continued, and in 1864 the U.S. government sent officials to negotiate a peace.

The Modocs signed the 1864 treaty between “the United States and the Klamath, Modoc, and Yahooskin Band of Snakes.” In so doing, they agreed to move to the Klamath Agency in southern Oregon. However, relocation on the reservation proved difficult. Resources were limited and tension between the Modocs and the Klamaths developed. Those Modocs who had lived mainly in Oregon under the leadership of Old Schonchin enjoyed a better relationship with the Klamaths than those who had lived in northern California under Kintpuash (also known as “Captain Jack”). Once relocated, the northern California Modocs received poor treatment from both the Klamaths and the Indian agency officials. Their pleas for a separate tribal reserve nearer their homeland went unheeded.

Kintpuash and his followers attempted to adhere to the stipulations of the treaty, but the poor conditions at the Klamath Agency prompted their return in 1870 to their tribal lands in northern California. The Modocs reasoned that while they had complied with the treaty, the agency officials had not, and that it was therefore reasonable for them to return to their traditional homeland to improve their situation. Settlers unhappy with the tribe's reappearance called on the government to force the Modocs' return to the Klamath reservation. President Ulysses S. Grant obliged, ordering their removal to the Klamath Agency “by any means necessary.”

On the morning of November 29, 1872, the U.S. army surrounded a Modoc encampment on Link River in southern Oregon. When Kintpuash and his followers realized that the army meant to forcefully move them back to the Klamath Agency, they split up and started to make their way to what then became known as “Captain Jack's Stronghold” (and has since been designated the Lava Beds National Monument) in northern California. Along the way, several Modocs, led by Hooker Jim, killed eleven settlers. When all of the Modocs were reunited in the Lava Beds, Kintpuash

learned about the deaths of the settlers, and the Modoc War began in earnest.

By January 1873 the army had located the band and set about to dislodge the Modocs from their stronghold. Greatly outnumbered, the Modocs successfully held them off for months. President Grant, impatient to see the issue settled, established a peace commission made up of Gen. Edward R. S. Canby, Alfred Meacham (the superintendent of Indian Affairs for the state of Oregon), Thomas Dyer (the Indian agent at Fort Klamath), Winema (a Modoc woman and cousin of Kintpuash), and Frank Riddle (Winema's Kentucky-born husband). For the next three months, negotiations slowly proceeded as mediator Winema traveled between the stronghold and the U.S. army encampment a few miles away. The Modocs mistrusted the government representatives, but on April 11, 1873, Kintpuash and several Modoc men finally met with the peace commission. Negotiations proved one-sided as General Canby demanded that the Modocs surrender. Under pressure from his men, Kintpuash shot and killed Canby and one other. With the help of Winema, the surviving peace commissioners escaped, while the Modocs dispersed into the Lava Beds.

In the following weeks the army slowly made its way through the Lava Beds forcing out most of the Modocs. Internal dissension within the tribe eventually led to the capture on June 1 of Kintpuash and the remaining Modoc holdouts. Kintpuash and several of his warriors stood trial at the Klamath Agency. In October 1873 the military executed four Modoc men, including Kintpuash; two more served terms in Alcatraz. The court removed the remaining 153 Modocs to the Indian Territory (in what is present-day Oklahoma).

The casualties of the Modoc War consisted of fifteen Modoc men (no deaths of women or children were recorded), fifty-three U.S. soldiers, and seventeen settlers. A further victim of the war was President Grant's peace policy. The Modoc situation between 1864 and 1871 reflected the failure of the policy's treaty-making component, which, through a lack of oversight at the Klamath Agency at the time of the Modoc's initial removal there, and the eventual high monetary costs of the war itself, proved ineffective.

See also *Kintpuash (Captain Jack)*; *Meacham, Alfred B.*; *Winema*.

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BIBLIOGRAPHY

Brown, Dee. *Bury My Heart at Wounded Knee: An Indian History of the American West*. New York: Macmillan, 2001.

Meacham, Alfred B. *Wigwam and War-Path or the Royal Chief in Chains*. Boston: John P. Dale, 1875.

Murray, Keith. *The Modocs and Their War*. Norman: University of Oklahoma Press, 1959.

Riddle, Jeff. *The Indian History of the Modoc War*. San Francisco: Marnell & Co., 1914.

Monroe, James

James Monroe (1758–1831) was the fifth president of the United States (1817–1825). His administration seriously contemplated the removal of the Native American tribes living in the eastern United States to the Louisiana Territory, west of the Mississippi River. However, Monroe prevented a wholesale removal by insisting that any tribe had to consent to its relocation.

Monroe was born in Westmoreland County, Virginia. He graduated from the College of William and Mary in 1776. As a student he was active in the American Revolution, and after graduating he joined the Continental Army, in which he served with distinction. After the Revolutionary War (1775–1783) he practiced law in Fredericksburg, Virginia, and in 1783 he was elected to the Continental Congress. He opposed the ratification of the Constitution as a delegate at the Virginia ratification convention on the grounds that the president and the Senate would not be popularly elected and because the document did not include a bill of rights.

After ratification, Monroe served in the U.S. Senate (1790–1794), as U.S. minister to France (1794–1797), governor of Virginia (1799–1802 and 1811), U.S. minister to Great Britain (1803–1807), special envoy to Spain (1805), U.S. secretary of state (1811–1814 and 1815–1817), and U.S. secretary of war (1814–1815). In 1803 Monroe helped negotiate the Louisiana Purchase from France. As secretary of war, he supervised the negotiation of treaties that ended hostilities with the tribes at the end of the War of 1812 (1812–1814).

In 1816 Monroe was elected president as a Republican. He won reelection with little opposition four years later. In his first inaugural address to Congress on March 4, 1817, Monroe declared that he would continue the Indian policies of his predecessors George Washington, Thomas Jefferson, and James Madison. Monroe said that he wanted to maintain good relations with the Indian tribes and treat them with kindness. He also wanted to continue the government's "civilization" program, which was designed to teach Native people to give up hunting and farm like Americans, speak English, and adopt Christianity as their religion. Monroe believed that because the American population was growing

and expanding to the West, Indians would have to surrender their territory to the United States.

Early in his administration Monroe had to deal with a conflict that affected the United States's relations with the Seminoles, Great Britain, and Spain. John C. Calhoun, Monroe's secretary of war, ordered Andrew Jackson to take his army into Spanish Florida to capture runaway slaves and end Indian attacks on white settlements. During this action, usually referred to as the First Seminole War (1817–1818), Jackson captured and executed two British agents he accused of arming and inciting the Seminoles against American settlers. The episode set off an international incident. In 1819 Secretary of State John Quincy Adams secured the cession of Florida from Spain in the Adams-Onís Treaty.

Under Thomas L. McKenney, who was responsible for Indian affairs as superintendent of Indian trade from 1816–1822, Monroe's administration expanded the "civilization" program by supporting legislation (the Indian Civilization Act of 1819) to fund the efforts of Christian missionaries to educate and convert the Indians; providing agricultural tools, equipment, stock animals, and seeds to Native farmers; promoting the establishment of schools for Indian children; and expanding the factory system.

The government signed almost forty treaties with Indian tribes in the United States during Monroe's two terms. Most of the treaties required land cessions from the Indians, and some of them, such as those with the Cherokees, Ho-Chunks (Winnebagos), Miamis, Menominees, and Potawatomis, included inducements or requirements for the tribes, or portions of them, to relocate to the West.

Monroe's administration also reorganized the way in which federal responsibility for Indian affairs was structured. Congress abolished the Office of Indian Trade in 1822, and in 1824 Monroe's secretary of war, John C. Calhoun, established what he called the Office of Indian Affairs in the Department of War. Calhoun put Thomas McKenney in charge of the office.

During Monroe's presidency, the state of Georgia began to pressure Monroe and Congress to fulfill the Compact of 1802. In that agreement, the federal government had promised to extinguish the land titles of the Creek and Cherokee nations in exchange for Georgia's relinquishing of claims on lands west of the Chattahoochee River. By this time, many American politicians were calling for a general removal of all Indians out of the path of American settlement. Monroe believed that the only way to save the eastern tribes from extinction would be to remove them to the "vacant" lands

west of the Mississippi. In the West, he believed, the Natives would have time to acculturate and would not be bothered by trespassers or negatively influenced by dishonest traders. They would also maintain their autonomy, and the United States could assist them in establishing distinct, "civilized" governments. However, Monroe refused to give in to Georgia and insisted that the removal of any tribe would have to be voluntary. Monroe's allies in Congress proposed a voluntary removal bill; it passed in the Senate but died in the House of Representatives. Monroe's successor, John Quincy Adams, agreed that the tribes should consent to relocation. Only when Andrew Jackson assumed the presidency in 1829 did the federal government move to force the eastern tribes across the Mississippi. By 1843 the United States government had relocated almost all of the tribes that had once lived east of the Mississippi to the west of the great river.

See also *Bureau of Indian Affairs*; *Calhoun, John C.*; *Civilization Program*; *Factory System*; *First Seminole War (1817–1818)*; *Jackson, Andrew*; *Louisiana Purchase*; *Removal*; *U.S. Indian Policy: Congress and the Executive, 1803–1848*.

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BIBLIOGRAPHY

- Ammon, Harry. *James Monroe: The Quest for National Identity*. Charlottesville: University Press of Virginia, 1990.
- Cunningham, Noble E., Jr. *The Presidency of James Monroe*. Lawrence: University Press of Kansas, 1996.
- Garrison, Tim Alan. *The Legal Ideology of Removal: The Southern Judiciary and the Sovereignty of Native American Nations*. Athens: University of Georgia Press, 2002.
- Monroe, James. *Writings of James Monroe*. 7 vols. Edited by Stanislaus Murray Hamilton. New York and London: G. P. Putnam's Sons, 1893–1903.
- Wilmerding, Lucius, Jr. *James Monroe: Public Claimant*. New Brunswick, N.J.: Rutgers University Press, 1960.

Montana v. United States (1981)

In the 1981 United States Supreme Court case of *Montana v. United States*, the Court had to decide whether the Crow tribe possessed the inherent sovereign authority to regulate the hunting and fishing activities of non-Indians on lands that were within the Crow reservation but owned by non-Indians. The Court held that the tribe did not have the governmental authority to regulate the non-Indian activity at issue. This decision appeared to go against the present-day trend of federal Indian policy, at least as stated by the U.S. Congress, of supporting the governmental activities of tribal nations and allowing them to control their own destinies and to exercise self-determination.

In a later case, *Strate v. A-1 Contractors* (1997), The Court called *Montana* the “pathmarking case concerning tribal civil authority over nonmembers” and stated that it “described a general rule that . . . Indian tribes lack civil authority over the conduct of nonmembers on non-Indian land within a reservation.”

The Court has expanded the application of *Montana* to prevent tribal taxation of a non-Indian-owned hotel on the Navajo Nation reservation; to prevent a tribal court from hearing a lawsuit about a car accident on the Mandan, Hidatsa, and Arikara reservation; to allow a county government to zone developments within the Yakama Nation reservation; and to allow state game wardens to search a tribal member’s house on tribally owned trust lands within a reservation without being subject to a civil rights violation suit in the tribal court.

The *Montana* Court did, however, define two exceptions in which Indian tribes can have civil jurisdiction over non-Indian activities on non-Indian owned lands within a reservation. The first exception states that tribes may control and regulate non-Indian activities through taxation, licensing, or other means if the non-Indian has entered a consensual relationship with the tribe or its members through contracts, leases, or other commercial and non-commercial arrangements. The second exception allows the exercise of tribal sovereignty over non-Indians on non-Indian-owned fee lands within a reservation if the conduct of the non-Indian threatens or has some direct effect on the political integrity, economic security, or health or welfare of the tribe.

The Supreme Court and other federal courts have been relatively cautious in applying these two exceptions, however. Tribal courts have been somewhat more liberal in applying them and in recognizing the crucial necessity of tribal governments having the ability to control the threatening and dangerous activities of all persons present on reservations.

Even though the *Montana* rule expressly applies only to non-Indian activities on non-Indian-owned fee lands within a reservation, a few Supreme Court justices have put forth the opinion that the decision should apply to all lands within a reservation whenever a tribe seeks to exercise civil jurisdiction over non-Indians or nonmembers of a tribe.

See also *Fishing, Hunting, and Gathering Rights; Tribal Courts; Sovereignty; U.S. Supreme Court and Indian Policy, 1978–* .

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BIBLIOGRAPHY

- Atkinson Trading Company, Inc. v. Shirley*, 532 U.S. 645 (2001).
Brendale v. Confederated Tribes and Bands of Yakima Indian Nation, 492 U.S. 408 (1989).
Montana v. United States, 450 U.S. 544 (1981).
Nevada v. Hicks, 533 U.S. 353 (2001).
 Newton, Nell Jessup, ed. *Cohen’s Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005.
Strate v. A-1 Contractors, 520 U.S. 438 (1997).

Montezuma, Carlos

Carlos Montezuma (c. 1866–1923), a Southeastern Yavapai (Kwevkepaya), was born in central Arizona with the name Wassaja. In 1871, after being captured by Pimas, he was sold to Carlos Gentile, an Italian immigrant, who changed his name and took him east. Montezuma eventually came under the guardianship of a Baptist minister. He graduated from the University of Illinois and the Chicago Medical School and worked from 1889 to 1893 as a doctor for the Office of Indian Affairs (OIA) on western reservations.

In the early twentieth century, Montezuma became reacquainted with his Kwevkepaya relatives in Arizona and helped champion the tribe’s resistance to forced removal from their Fort McDowell reservation. OIA personnel hoped to make the reservation’s land and water rights available to non-Indian citizens, but Montezuma lobbied U.S. officials, arranged for Kwevkepayas to testify before Congress, and hired a lawyer to plead the Indians’ case. Ironically, even as the Kwevkepayas retained their hold on Fort McDowell, Montezuma came to view reservations as impoverished prisons that locked Indians into cultural isolation and backwards tribalism.

In 1911 Montezuma helped found the Society of American Indians (SAI), which promoted the assimilation of Natives into mainstream U.S. society. In a famous speech he pleaded for the federal government to release American Indians from the control of its paternalistic policies. Montezuma was often at odds with the SAI, contending that it was too connected with, and too uncritical of, the OIA. From 1916 to 1922, he published a newsletter, *Wassaja*, which consistently called for the abolition of the OIA and the reservation system. He protested against federal conscription during World War I (1914–1918) and spent a great deal of time during this period advocating for Kwevkepaya water rights. In 1922 Montezuma fell ill with tuberculosis and returned to Fort McDowell. He spent his last weeks in a Kwevkepaya brush hut, dying on January 31, 1923.

See also *Bonnin, Gertrude; Indian Rights Movements; Reservations; Society of American Indians.*

Timothy Braatz

BIBLIOGRAPHY

- Braatz, Timothy. *Surviving Conquest: A History of the Yavapai Peoples*. Lincoln: University of Nebraska Press, 2003.
- Iverson, Peter. *Carlos Montezuma and the Changing World of the American Indians*. Albuquerque: University of New Mexico Press, 1982.
- Speroff, Leon. *Carlos Montezuma, M.D.: A Yavapai American Hero*. Portland, Ore.: Arnica Publishing, 2003.

Morgan, Thomas J.

Thomas Jefferson Morgan (1839–1902) served as commissioner of Indian affairs from 1889 to 1893. He was a strong supporter of policies and programs designed to assimilate American Indians into mainstream U.S. society.

Morgan believed that the solution to the “Indian problem” was to break down Indian cultures, and he was a close ally of the Lake Mohonk Conference of the Friends of the American Indian, a group that purported to defend Native rights by calling for Indians’ acculturation and assimilation. Meanwhile, Morgan supported and helped implement the General Allotment Act (Dawes Act) of 1887, which broke up reservations, giving each Indian family an individual plot of land.

On the education front, Morgan believed mandatory national education for Native children would transform them into property-owning American patriots. In 1890 he published “Rules for Indian Schools,” which outlined a standard course of education for Indian youth. Morgan also supported education for Native American women as a way to reform families.

To discourage Indian dances and religious activities, Morgan created new rules for the Courts of Indian Offenses, making it a misdemeanor to spend time “in idleness or loafing.” He opposed Wild West Shows, because they promoted an untamed, restless popular image of Native culture that he hoped to replace with the reality of Indians becoming U.S. citizens.

Despite his efforts to detribalize and assimilate Native peoples, Morgan met with limited success. Catholic leaders, who generally found Morgan’s leadership objectionable, resisted his new plans for Indian education, arguing that the plans infringed on existing missionary schools. American Indians also resisted educational efforts that prohibited Native languages, sent children to far-off schools, and dis-

mantled existing culture. Nevertheless, Morgan remained an outspoken advocate of Indian reform.

After leaving office in 1893, Morgan accepted a position as corresponding secretary of the Baptist Home Mission Society, where he continued to promote national education for Native Americans.

See also *Assimilation and Acculturation; Commissioner of Indian Affairs; General Allotment Act (Dawes Act) of 1887; Lake Mohonk Conferences.*

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BIBLIOGRAPHY

- Bannan, Helen M. “The Idea of Civilization and American Indian Policy Reformers in the 1880s.” *Journal of American Culture* 1, no. 4 (1978): 787–799.
- Kvasnicka, Robert M., and Herman J. Viola, eds. *The Commissioners of Indian Affairs, 1824–1977*. Lincoln: University of Nebraska Press, 1979.

Morton v. Mancari (1974)

In *Morton v. Mancari* (1974), the Supreme Court ruled that the Bureau of Indian Affairs (BIA) could legally prefer hiring Indians to non-Indians when filling BIA job openings. The class action lawsuit, filed by the non-Indian members of the BIA, including C. R. Mancari, was brought against Secretary of the Interior Rogers C. B. Morton, citing an alleged conflict between two federal laws.

In 1934 Congress passed the Indian Reorganization Act, which called on the BIA to prefer Indians to non-Indians when hiring. This practice later expanded to include a preference for training and promoting Indian employees over non-Indian employees at the BIA. In 1972 Congress passed the Equal Employment Opportunity Act (EEOA), which prohibited race discrimination in most federal employment practices.

The non-Indian BIA employees who were challenging the legality of the BIA hiring preference argued that the EEOA repealed that part of the Indian Reorganization Act addressing hiring practices and that the Indian hiring preference violated the due process clause of the Fifth Amendment.

The Supreme Court disagreed with both arguments, finding that nothing in the EEOA could be interpreted as explicitly overruling the preference for hiring Indians. Furthermore, the Court claimed that Congress’s own actions indicated its desire to keep the hiring preference intact. In response to the constitutional argument, the Court cited the unique history of U.S.–Indian relations and then dismissed

the claim by pointing out that the hiring preference was not based on a racial classification, but on a political classification—membership in a federally recognized tribe.

See also *Bureau of Indian Affairs; Employment, Regulation of; Indian Reorganization Act of 1934.*

Ryan P. Seelau

BIBLIOGRAPHY

Baird, Bryan Douglas. "Morton v. Mancari: New Vitality for the Indian Preference Statutes." *Tulsa Law Journal* 10 (1974–1975): 454–462.
Equal Employment Opportunity Act, Public Law 92–261, 92nd Cong., 2nd sess. (March 24, 1972).
Indian Reorganization Act, Public Law 73–383, 73rd Cong., 2nd sess. (June 18, 1934).
Morton v. Mancari, 417 U.S. 535 (1974).

Mountain Meadows Massacre (1857)

After their settlement in Utah territory in 1847, members of the Church of Jesus Christ of Latter-day Saints (Mormons) struggled against federal governance, striving to protect their lifestyle and theocracy through resistance and alliances with the local Paiute tribes. Despite initial cooperation, the differences between Mormons and Paiutes led to armed conflict. By the time the Arkansan Fancher-Baker wagon train entered Mountain Meadows on September 7, 1857, the Mormons were embroiled in the Utah War (1857–1858) with the U.S. Army and were on the verge of the Walker War (1858) with the Paiutes.

It was within this conflict-filled environment that the Nauvoo Legion, a Mormon militia disguised as Paiutes, attacked the Fancher-Baker wagon train of nearly two hundred men, women, and children. After a five-day siege, Nauvoo Legion major John Doyle Lee, claiming to be a federal Indian agent and negotiator, emerged and promised the emigrants safe passage to nearby Cedar City. As Lee's group led the captives out of the meadow, he reportedly shouted, "Halt! Do your duty!" and the captives' escort opened fire, killing all but seventeen children.

Controversy surrounds this event. The Mormon Church denied responsibility, playing on pioneers' fears of Indian raids by placing the blame on the Paiutes. Meanwhile, anti-Indian bias prevented the Paiutes from testifying in court on their own behalf. But discrepancies in the Mormon testimony, claims by the surviving children, later confessions by Lee, and forensic evidence uncovered in 1999 support Paiute

claims of innocence. Nevertheless, the incident reinforced Americans' perception of Indians as dangerous and further justified an increased military presence and federal focus on the West.

See also *Indian Agents; Westward Migration.*

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BIBLIOGRAPHY

Bagley, Will. *Blood of the Prophets: Brigham Young and the Massacre at Mountain Meadows*. Norman: University of Oklahoma Press, 2002.
 Brooks, Juanita. *The Mountain Meadows Massacre*. Norman: University of Oklahoma Press, 1991.
 Denton, Sally. *American Massacre: The Tragedy at Mountain Meadows, September 1857*. New York: Knopf, 2003.

Mundt, Karl E.

Karl Earl Mundt (1900–1974) served as a Republican in the U.S. House of Representatives (1938–1948) and Senate (1948–1973). Born in Humboldt, South Dakota, Mundt studied economics at Carleton College and became a teacher and then a principal in his home state. He later acquired a master's degree from Columbia University.

In 1943 Mundt chaired the House Select Committee to Investigate Indian Affairs and Conditions, which examined the state of federal Indian policy and its impact on the government's abandonment of the Indian New Deal. The committee determined that Indians should be assimilated into mainstream American society as quickly as possible, and that this process was being delayed by inadequate educational programs, an absence of economic opportunities, and the lack of laws and institutions to deal with fractionated allotment shares (the inheritance of tribal lands by numerous heirs) and other Indian land claims. The committee recommended that tribes be allowed to dissolve the governments they had created under the Indian Reorganization Act, which had been instituted in the hopes of helping revive tribal economies. The committee also suggested that the government conduct negotiations among Indian heirs to reduce the number of fractionated shares and that credit be provided to tribes for economic development. It also called for the reduction of expenses and the elimination of unnecessary programs in the Office of Indian Affairs. To a considerable extent, the committee's report helped bring about federal movement toward the termination era, during which the government sought to end its fiduciary responsibility to the Indian tribes.

After his election to the Senate, Mundt served on the Indian Affairs Committee. He died in Washington, D.C., on August 19, 1974, and was buried in his home state of South Dakota.

See also *Congressional Committees on Indian Affairs; Indian New Deal; Termination and Restoration.*

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BIBLIOGRAPHY

Heidepriem, Scott. *A Fair Chance for a Free People: Biography of Karl E. Mundt, United States Senator*. Madison, S.D.: Leader Printing Co., 1988.

Myer, Dillon S.

President Harry S. Truman appointed Dillon Seymour Myer (1891–1982) as commissioner of the Bureau of Indian Affairs (BIA) in May 1950. Myer was responsible for laying the groundwork for the federal government's termination policy, which sought to end federal responsibility for Indians and all special programs for them.

Myer's appointment as commissioner of Indian affairs was controversial almost immediately. John Collier, head of the BIA under President Franklin D. Roosevelt, and Harold L. Ickes, secretary of the interior under Roosevelt, were both highly critical of Myer throughout his brief tenure as commissioner. Myer was an experienced government bureaucrat

who had served in several positions within the executive branch, most notably as head of the War Relocation Authority from 1942 to 1946. This agency oversaw the internment camps for Japanese Americans who were considered a security threat during World War II.

Myer wanted to streamline and modernize the structure of the BIA, but in so doing he was accused of removing or demoting anyone who opposed his policies. Myer was firmly committed to his termination policy, advocating the total assimilation of American Indians into mainstream U.S. society, and he saw reservations as a hindrance to this goal. The termination program was not enacted until after Myer left the BIA, but his work set the stage for its implementation. Because of mounting criticism of Myer by Indians and pro-Indian activists, President Dwight D. Eisenhower asked for Myer's resignation shortly after his inauguration. Myer left the BIA in March 1953.

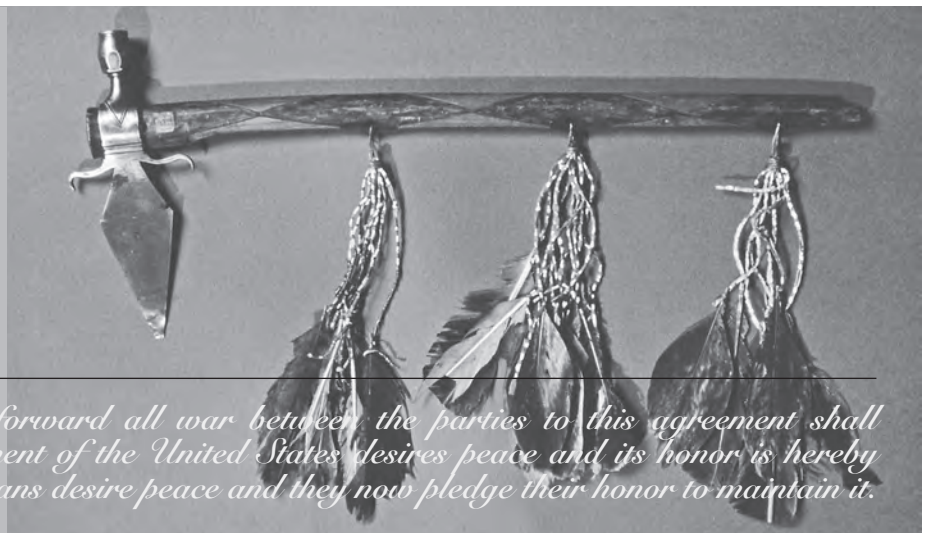
See also *Assimilation and Acculturation; Bureau of Indian Affairs; Collier, John; Eisenhower, Dwight D.; Ickes, Harold L.; Termination and Restoration; Truman, Harry S.*

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BIBLIOGRAPHY

Drinnon, Richard. *Keeper of Concentration Camps: Dillon S. Myer and American Racism*. Berkeley: University of California Press, 1987.
Fixico, Donald L. *Termination and Relocation: Federal Indian Policy, 1945–1960*. Albuquerque: University of New Mexico Press, 1986.

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Article 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they now pledge their honor to maintain it.

Nash, Philleo

Philleo Nash (1909–1987) served as commissioner of Indian affairs from 1961 to 1966 in the John F. Kennedy and Lyndon B. Johnson administrations. Before serving as commissioner, Nash worked in the Franklin D. Roosevelt and Harry S. Truman administrations as a specialist in race relations.

While writing his doctoral dissertation in anthropology on the Klamath Ghost Dance, Nash spent a year with the Klamath tribe in southern Oregon to conduct research, and he maintained contact with the tribe throughout his life. In 1961 Kennedy's secretary of the interior, Stewart L. Udall, appointed Nash to the administration's Task Force on Indian Affairs, which developed strategies to enhance Native economic independence and self-determination. After Nash spent six months on the task force, Udall appointed him commissioner of Indian affairs to implement many of its recommendations.

As commissioner, Nash worked to increase the trust between Native communities and the Bureau of Indian Affairs (BIA), which had broken down during implementation of the federal government's policy of termination (the federal government's plan to break up tribal governments and end special funding for Indian programs). He pressured government agencies to include Native American populations in their services and personally visited many reservations, participating in celebrations and tribal meetings.

Nash secured funding increases for the BIA and created an economic development division that managed several employment and education initiatives. Nash also advocated improvements and greater cultural awareness in the policy and practice of educating Native children. In 1966, amid

claims that the BIA was attempting to usurp antipoverty funds from tribes for its own use, Secretary Udall asked for Nash's resignation. He was the last non-Indian to serve as head of the Bureau of Indian Affairs.

Following his service, Nash returned to his study of anthropology and advocacy of racial justice. He died in 1987 after a short battle with cancer.

See also *Bureau of Indian Affairs; Johnson, Lyndon B.; Kennedy, John F.; Self-Determination; Task Force on Indian Affairs; Termination and Restoration; Udall, Stewart L.*

Kristin Teigen

BIBLIOGRAPHY

- Allen, Ray A. "Wither Indian Education? A Conversation with Philleo Nash." *School Review* 79 (November 1970): 99–108.
- Deloria, Vine, Jr. "Intellectual Self-Determinism and Sovereignty: Looking at the Windmills in Our Minds." *Wicazo Sa Review* 13 (Spring 1998): 25–31.
- Officer, James. "Philleo Nash (1909–1987)." *American Anthropologist* 90 (December 1988): 952–956.

National American Indian Court Judges Association (NAICJA)

The National American Indian Court Judges Association (NAICJA), established in 1969, assists tribal courts, which are historically underfunded and overwhelmed by case loads. The voluntary association strengthens tribal justice systems through education, information sharing, and advocacy. Most of its members are judges, justices, and peacemakers serving in tribal justice systems.

The NAICJA has made a particular effort to improve the responses of tribal justice systems to violent crime. It argues

that before an Indian community can vigorously enforce laws designed to protect Indian women, the tribal government must first enact comprehensive provisions against violence toward Indian women in its legal code. To assist tribal courts, the NAICJA Violence Against Women's Act Project has developed a model domestic violence code. The NAICJA also sponsors the National Tribal Justice Resource Center to share information among the various tribal courts and joined with VersusLaw in 2001 to launch TribalCourts.com, a database of Native American legal opinions.

In a number of decisions since the 1970s, the U.S. Supreme Court has limited tribal authority over the conduct of non-Indians within tribal territory. In response, the NAICJA supports the Tribal Sovereignty Protection Initiative, which seeks to address this diminishment of tribal jurisdiction. The initiative aims to develop federal legislation to reaffirm tribal jurisdiction, coordinate tribal advocacy before the Court, and increase tribal participation in the selection of federal judges.

See also *Indian Police Forces; Law Enforcement in Indian Country; U.S. Supreme Court and Indian Policy, 1978–* .

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BIBLIOGRAPHY

- Brakel, Samuel J. *American Indian Tribal Courts: The Costs of Separate Justice*. Chicago, Ill.: American Bar Foundation, 1978.
National American Indian Court Judges Association. www.naicja.org/.
Ross, Jeffrey Ian, and Larry Gould. *Native Americans and the Criminal Justice System*. Boulder, Colo.: Paradigm Publishers, 2006.

National Association of Tribal Historic Preservation Officers (NATHPO)

The National Association of Tribal Historic Preservation Officers (NATHPO) is a nonprofit organization of tribal officials who manage historic properties and cultural traditions for their tribes. Its mission is to support the preservation, maintenance, and revitalization of tribal historic properties and traditions.

Amendments in 1992 to the National Historic Preservation Act of 1966 enabled federally recognized tribes to manage their lands. In 1996 the National Park Service (NPS) allowed fourteen tribes to assume historic preservation responsibilities. Working with the NPS, tribal historic preservation officers serve on their lands in the same capacity as state historic preservation officers. Their duties include

conducting and maintaining historic property surveys and inventories, nominating properties to the National Register of Historic Places, and reviewing federal agency actions related to tribal properties.

NATHPO was established in 1998 to serve as an association for tribal historic preservation officers. NATHPO provides officers with training and technical advice on preservation laws, and it creates programs to support the transmission of cultural knowledge. It also monitors any activities of government agencies that relate to tribal historic properties.

Tribal sovereignty, confidentiality, and the absence of boundaries are NATHPO's guiding principles. The organization recognizes the inherent right of Native nations to self-government and confidentiality in their historic sites and traditions, as well as the extension of historic and cultural properties beyond reservation boundaries. As the first organization of tribal historic preservation officers, NATHPO reflects a new era in the federal government's historic preservation policy in which tribes manage their historic properties and traditions.

See also *National Parks and Monuments*.

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BIBLIOGRAPHY

- National Association of Tribal Historic Preservation Officers. www.nathpo.org/mainpage.html.

National Association on Indian Affairs (NAIA)

The National Association on Indian Affairs (NAIA), a Native advocacy organization, was founded in 1933.

The NAIA had its roots in protests over the Bursum Bill, legislation passed by the U.S. Senate in 1922 that activists argued favored non-Indian land claimants and promoted the disinheritance of New Mexico's Pueblo Indians. Out of that protest, non-Indians who wanted to support the lives and culture of the Pueblos organized the Eastern Association on Indian Affairs (EAIA) in 1922. Rejecting assimilation, the EAIA's mission was to support Native communities, self-determination, and pride, and to assist Native people in defending their rights.

The Bursum Bill was defeated, but the battle divided the activists. EAIA members pursued a program of cooperating with government policy makers, while members of the American Indian Defense Association attacked the government's administration of Indian affairs.

Although the EAIA did see some successes, the early years of the Great Depression (1929–1939) brought it instability. The EAIA suffered from lack of funds and aid until anthropologist and writer Oliver H. P. La Farge became president in 1933 and helped to strengthen the organization, which was renamed the National Association on Indian Affairs. With the support of the Franklin D. Roosevelt administration, NAIA members continued to challenge as well as to cooperate with the federal government's Indian policy. The NAIA sought to protect and improve Indian education, industry, religious freedom, health and sanitation, land tenure, and autonomy. The Southwest served as the NAIA's center of activity, but the group expanded its involvement into other parts of the nation.

In 1937 the NAIA joined with the American Indian Defense Association, also experiencing hardship during the 1930s, to establish the American Association on Indian Affairs (AAIA), with headquarters in New York City. During the 1940s, the AAIA created Program Study Committees in which experts worked on finding solutions to the problems facing the Indian peoples in health, law, education, and social and economic organization.

In 1946 the organization was renamed the Association on American Indian Affairs. In the 1950s, as an alternative to the U.S. government's termination policy, the AAIA proposed the American Indian Point IV Program to increase the economic and social development of Native communities without eliminating their Indian identity. In 1955 Edward Dozier, a Pueblo of Santa Clara, became the AAIA's first Native board member. The AAIA also played an influential role in passage of the Indian Child Welfare Act of 1978, and in the 1980s the AAIA assisted many people and tribes seeking to protect spiritual traditions and sites.

The 1990s found the AAIA suffering economic hardship, and so it reduced the scope of its activities. In 1995 the AAIA reorganized with an all-Indian administration and moved its headquarters to Sisseton, South Dakota.

From its beginning in 1922 as the Eastern Association on American Indians, its new life as the National Association on Indian Affairs in 1933, and its emergence as the Association on American Indian Affairs in 1946, the AAIA was one of the most important Native advocacy groups of the twentieth century.

See also *American Indian Defense Association; Association on American Indian Affairs; Bursum Bill (1922); Indian Child Welfare Act (1978).*

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BIBLIOGRAPHY

- Association on American Indian Affairs Archives. Seeley G. Mudd Manuscript Library, 1997. http://infoshare1.princeton.edu/libraries/firestone/rbsc/finding_aids/aaia/aaia.html.
- Hecht, Robert A. *Oliver La Farge and the American Indian: A Biography*. Metuchen, N.J.: Scarecrow Press, 1991.
- Kelly, Lawrence C. *The Assault on Assimilation: John Collier and the Origins of Indian Policy Reform*. Albuquerque: University of New Mexico Press, 1983.

National Congress of American Indians (NCAI)

The National Congress of American Indians (NCAI) is the oldest pan-Indian political organization in existence in the United States. Its founding is widely considered a turning point in American Indian history, because the organization gave a powerful voice to Indians and tribal interests in federal policy discussions.

In 1944 D'Arcy McNickle (Confederated Salish and Kootenai tribes), who was serving the U.S. government as special assistant to the commissioner of Indian affairs, invited several Indian leaders to travel to Washington, D.C., to meet and discuss the future of federal Indian policy. Those leaders, in consultation with a field officer for the Office of Indian Affairs (later renamed Bureau of Indian Affairs), drafted the NCAI's constitution, which established the NCAI as a nonpartisan, policy-oriented organization with the broad goals of preserving Indian cultural values while securing the individual rights and benefits of American Indian citizens. One hundred tribes joined the NCAI at its founding.

At the outset, the NCAI focused primarily on lobbying Congress for solutions to the problems of abrogated treaties and Indian land claims. Congress responded in 1946 by passing the Indian Claims Commission Act, which both aided tribes in recovering compensation for lost lands and solidified the NCAI as a powerful voice in pan-tribal affairs.

The NCAI then successfully lobbied for antitermination legislation and for the restoration of terminated tribes. In the 1970s, the NCAI became a strong voice for federally unrecognized tribes, and it lobbied successfully for the creation of recognition guidelines, now administered through the Bureau of Indian Affairs. The NCAI was also a key player in passage of the Native American Graves Protection and Repatriation Act (1990), and has remained active in the issue of repatriation of tribal remains and artifacts.

By 2000 the NCAI boasted 250 member tribes and had laid out an ambitious platform of interests in response to

changing tribal needs. This platform included the renaissance of tribal languages and cultural heritage; growth and development of tribal housing and education programs; substance abuse and AIDS prevention; tribal economic development; environmental and natural resources management; religious freedom; development and protection of Indian youth and the elders; tribal governance; and Indian voter education and mobilization. The NCAI also began working more closely with the National Conference of State Legislatures to facilitate more harmonious tribal-state relationships. In 2003 the organization launched a National Policy Research Center to facilitate sharing of knowledge on these key platform issues.

Because of its founding principles, legislative focus, and historic support for measured acculturation of American Indians into the mainstream of U.S. society, the NCAI, usually viewed as a moderate Indian organization, has often found itself at odds with some of the more radical and traditional voices in Indian Country. Whether in spite of or because of its moderate stance, the NCAI has undeniably been a powerful voice in Indian affairs in the modern era.

See also *Indian Claims Commission Act (1946)*; *Indian Rights Movements*; McNickle, D'Arcy; *Native American Graves Protection and Repatriation Act (1990)*; *Self-Determination; Termination and Restoration*; *U.S. Indian Policy: Congress and the Executive, 1944–1962*; *U.S. Indian Policy: Congress and the Executive, 1960–* .

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BIBLIOGRAPHY

- Cobb, Daniel M. *Beyond Red Power: American Indian Politics and Activism Since 1900*. Santa Fe, N.Mex.: School for Advanced Research Press, 2007.
- Cowger, Thomas W. *The National Congress of American Indians: The Founding Years*. Lincoln: University of Nebraska Press, 1999.
- Hertzberg, Hazel W. *The Search for an American Indian Identity: Modern Pan-Indian Movements*. Syracuse, N.Y.: Syracuse University Press, 1971.
- Indian Claims Commission Act*, Public Law 726, 79th Cong., 2nd sess. (August 13, 1946).
- Johnson, N. B. "The National Congress of American Indians." *American Indian* 3 (Summer 1946): 140–148.
- National Congress of American Indians. www.ncai.org.
- Native American Graves Protection and Repatriation Act*, Public Law 101–601, 101st Cong., 2nd sess. (November 16, 1990).

National Council on Indian Opportunity (NCIO)

On March 6, 1968, President Lyndon B. Johnson delivered a special message to Congress introducing a new policy of "maximum choice" for Indian peoples that emphasized self-

help, self-development, and self-determination. To advance this policy and provide closer coordination between government agencies that provided services to Native Americans, Johnson issued an executive order establishing the National Council on Indian Opportunity (NCIO).

Johnson gave the NCIO the tasks of reviewing existing federal programs for Indians, making policy recommendations, and ensuring that government programs reflected the needs and desires of Indian peoples. The NCIO, which included a mixture of Indian leaders and cabinet officers, was chaired by Vice President Hubert H. Humphrey. The organization's daily operations were administered by an executive director (William Carmack, 1968–1969; Robert Robertson, 1969–1974).

After Richard M. Nixon was elected president in 1968, Vice President Spiro T. Agnew assumed chairmanship of the NCIO. Over the course of the next five years, the NCIO sought to advance Indian control over the activities of various government programs such as those dealing with education and housing, to promote economic progress by enabling Indian leaders to arrange for the development and use of reservation resources, to improve Indian health care services, and to assist Indian peoples residing in urban areas.

In December 1973, Gerald R. Ford replaced Agnew as vice president and assumed the duties of NCIO chairperson. Unlike Agnew, Ford demonstrated little interest in Indian reform, and he declined to back legislation that would have extended the life of the NCIO beyond its termination date of November 26, 1974.

See also *Johnson, Lyndon B.*; *U.S. Indian Policy: Congress and the Executive, 1960–* .

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BIBLIOGRAPHY

- Castile, George P. *To Show Heart: Native American Self-Determination and Federal Indian Policy, 1960–1975*. Tucson: University of Arizona Press, 1998.
- Lacy, Michael G. "A Model of Cooptation Applied to the Political Relations of the United States and American Indians." *Social Science Journal* 19 (1982): 23–36.
- Tyler, S. Lyman. *A History of Indian Policy*. Washington, D.C.: U.S. Department of the Interior, 1973.

National Farmer's Union Insurance Companies v. Crow Tribe of Indians (1984)

See *Exhaustion Doctrine*.

National Indian Defense Association (NIDA)

The National Indian Defense Association (NIDA) was the only major reform group in the late nineteenth century to oppose the allotment in severalty program that the United States adopted for American Indians. While other national reform groups such as the Indian Rights Association pushed for allotment and rapid assimilation, the NIDA advocated a process of gradual assimilation and urged the U.S. government to take into account the opinions of Native peoples on the questions of allotment and assimilation.

The NIDA was led by Thomas A. Bland, the editor of *The Council Fire*, a periodical that had argued for citizenship for Indians and rapid assimilation. However, by the time he founded the NIDA on November 28, 1885, Bland had reversed his position and had begun urging the federal government to respect the cultural freedom and tribal organizations of Native Americans.

The association opposed allotment in severalty of Indian lands and the provisions in the General Allotment Act (Dawes Act) of 1887 that granted U.S. citizenship to Native Americans upon their receipt of an allotment. It argued that Native peoples should decide for themselves whether they wanted allotment and citizenship and that the government should provide for Natives' education before they were forced to become individual landowners or citizens.

The NIDA also provided legal assistance to some twenty tribes in cases involving the U.S. government. Although short-lived and unable to stem the tide of the allotment and assimilationist policy, the NIDA offered an alternative that allowed Indians to set their own timetable for assimilation. In the 1930s, the federal government would adopt some of the principles put forth by the group.

See also *Allotment in Severalty; General Allotment Act (Dawes Act) of 1887; Indian Rights Association.*

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BIBLIOGRAPHY

Prucha, Francis Paul, ed. *Americanizing the American Indians: Writings by the "Friends of the Indian," 1880–1900*. Cambridge, Mass.: Harvard University Press, 1973.

National Indian Gaming Commission (NIGC)

The Indian Gaming Regulatory Act (IGRA), enacted in 1988, created an independent federal regulatory authority for gaming on Indian lands called the National Indian Gaming Commission (NIGC). The NIGC's primary mission is to provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments; to provide a statutory basis for the regulation of gaming by an Indian tribe adequate to shield it from organized crime and other corrupting influences; to ensure that the Indian tribe is the primary beneficiary of the gaming operation; and to ensure that gaming is conducted fairly and honestly by both the operator and players. The IGRA also states that the establishment of the NIGC was necessary to create federal standards for Indian gaming, to meet congressional concerns regarding gaming, and to protect such gaming as a means of generating tribal revenue.

The IGRA authorizes the NIGC to conduct investigations; undertake enforcement actions, including the issuance of violations, assessment of civil fines, and/or the issuance of closure orders; conduct background investigations; conduct audits; and review and approve tribal gaming ordinances. The NIGC issues opinions when determining whether tribes' proposed gaming is located on "Indian lands" in accordance with the IGRA. Additionally, the NIGC plays a critical role in the determination of the distinction between Class II and Class III gaming, which has been the subject of litigation. Finally, the NIGC has the power to issue rules and regulations to implement the IGRA. In *Colorado River Indian Tribe (CRIT) v. NIGC* (2006), NIGC regulations requiring minimum internal control standards for Class II and Class III gaming on Indian lands were determined to be beyond the scope of the NIGC's authority. The scope of that authority, beyond the NIGC's ability to issue minimum internal control standards, is widely debated.

The NIGC is composed of three members: two associate commissioners, appointed by the secretary of the interior, and a chair, appointed by the president. Commissioners are appointed for three-year terms. Unique to federal commissions, two of the three commissioners must be enrolled tribal members of a federally recognized Indian tribe. No more than two members may be from the same political party.

The NIGC is divided into several divisions, and the majority of its staff is located in its Washington, D.C., head-

quarters. There are five regional offices, located in Portland, Oregon; Sacramento, California; Phoenix, Arizona; St. Paul, Minnesota; and Tulsa, Oklahoma.

The NIGC is funded by fees collected from tribal gaming proceeds. A recent amendment to the IGRA revises the \$8 million maximum total amount of all fees the NIGC may impose during any fiscal year under the established schedule of fees and replaces \$8 million with a maximum of 0.080 percent of the gross gaming revenues of all gaming operations subject to regulation under IGRA.

See also *Gaming; Indian Gaming Regulatory Act (IGRA; 1988).*

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BIBLIOGRAPHY

Light, Steven Andrew, and Kathryn R. L. Rand. *Indian Gaming and Tribal Sovereignty: The Casino Compromise*. Lawrence: University of Kansas Press, 2007.

Mason, W. Dale. *Indian Gaming: Tribal Sovereignty and American Politics*. Norman: University of Oklahoma Press, 2002.

National Indian Gaming Web site. <http://www.nigc.gov/Home/tabid/36/Default.aspx>.

National Indian Youth Council (NIYC)

The National Indian Youth Council (NIYC) is a civil rights and cultural advocacy organization that was founded in 1961 in Albuquerque, New Mexico. The group has been involved in a wide array of economic, educational, environmental, and international issues on behalf of Native Americans.

The NIYC was one of many groups founded in the early and mid-1960s in response to the termination policies of the Dwight D. Eisenhower and Harry S. Truman administrations. Efforts to organize the group began in the mid-1950s during the annual conferences of the Southwest Association of Indian Affairs. These conferences featured a collection of youth councils aimed at sharing research conducted by Native college students. In 1957 the association changed its name to the Southwest Regional Youth Council (SRYC), and it held annual conferences until 1961. That year, the SRYC joined with D'Arcy McNickle's Indian Leadership Training Program to form the National Indian Youth Council.

The NIYC quickly passed resolutions opposing termination and advocating tribal sovereignty and the full exercise of citizenship rights. In 1964 members attended the Lyndon B. Johnson administration's American Indian Capital Conference on Poverty, which highlighted the role of edu-

cation in economic development and antipoverty efforts. Many members of the group also joined the protests and eventual occupation of Alcatraz Island in 1964 and 1969.

In 1970 NIYC members occupied the Littleton, Colorado, office of the Bureau of Indian Affairs (BIA) and also protested against a BIA-operated school, the Inter-Mountain School for the Navajos, in Brigham City, Utah. In the early 1970s, the NIYC sponsored protests over Native fishing rights in the Pacific Northwest, using the tactic of a "fish-in" to press their point. In 1972 members participated in the "Trail of Broken Treaties—Pan American Native Quest for Justice," a caravan that traveled from Denver, Colorado, to Washington, D.C., to demand a return to pre-1871 tribal autonomy and status. The group was differentiated from its counterpart, the American Indian Movement (AIM), in some of these activities in that NIYC members were mostly from rural reservations instead of urban native communities.

Inherent in these actions of the NIYC was the explicit promotion of Native American cultures. Indeed, the organization was credited with creating the term *Red Power*. In protests and in other activities, members also adopted the cultural symbols, such as the headdress, as an expression of pride. Such acts were in strong contrast to the federal policies of the 1950s, which had called for assimilation of Native cultures into mainstream U.S. society, as well as the more moderate approach of some older Native leaders. They also reflected the cultural milieu of the 1960s, during which many racial and ethnic groups were embracing their heritages and cultures. The value of Native cultures was expressed in a 1973 NIYC statement, "Americans before Columbus," that advocated a brotherhood of tribes to express a common tribal identity and a sense of nationalism.

Since the mid-1970s, the NIYC has shifted from focusing on acts of protest to pursuing a broad-based policy agenda that has included advocating for Native religious freedom, participating in local and national elections, lobbying state and federal officials, opposing "Indian" sports mascots, undertaking economic development initiatives, and supporting indigenous communities in other nations. In 1989 the group issued a revised version of "Americans before Columbus" that exhorted Native peoples to move beyond protests and to continue to embrace their cultures as a source of strength.

See also *Alcatraz Island, Seizure of; American Indian Movement; Indian Rights Movements; U.S. Indian Policy: Congress and the Executive, 1944–1962; U.S. Indian Policy: Congress and the*

Executive, 1960– ; Mascots; McNickle, D'Arcy; Self-Determination; Sovereignty; Termination and Restoration; Trail of Broken Treaties (1972).

Kristin Teigen

BIBLIOGRAPHY

- Bonney, Rachel A. "The Role of AIM Leaders in Indian Nationalism." *American Indian Quarterly* 3 (Autumn 1977): 209–224.
- Hanson, Jeffrey R. "Ethnicity and the Looking Glass: The Dialectics of National Indian Identity." *American Indian Quarterly* 21 (Spring 1997): 195–208.
- Hertzberg, Hazel Whitman. "Indian Rights Movement, 1887–1973." In *Handbook of North American Indians*, edited by William C. Sturtevant, 305–323. Washington, D.C.: Smithsonian Institution Press, 1988.
- Iverson, Peter. "Building toward Self-Determination: Plains and Southwestern Indians in the 1940s and 1950s." *Western Historical Quarterly* 16 (April 1985): 163–173.

National Museum of the American Indian Act (NMAIA; 1989)

The National Museum of the American Indian Act (NMAIA), passed by Congress in 1989, had two central goals: first, to provide for the establishment of the National Museum of the American Indian as a part of the Smithsonian Institution, and, second, to mandate that the Smithsonian conduct an inventory and then provide a process for returning to Native tribes human remains and sacred or ceremonial artifacts held in its collection.

Located on the Mall in Washington, D.C., the National Museum of the American Indian (NMAI) was built over a five-year period, from 1999 to 2004. The museum at large actually comprises three institutions: the museum in Washington, which displays a series of permanent and traveling exhibits; the George Gustav Heye Center, which opened in October 1994 at the historic Alexander Hamilton U.S. Custom House in lower Manhattan to serve as the NMAI's exhibition and education facility in New York City; and the Cultural Resources Center in Maryland, which opened in 1999 to serve as a source for scholarly research.

Under the NMAIA, the government provided two-thirds of the \$110 million cost of the museum, while nearly \$37 million was provided by private sources, including a \$10 million gift from the Mashantucket Pequot Nation in Connecticut.

Once the museum board of directors was established in 1991, it adopted a formal policy to comply with the NMAIA, which stated that the Smithsonian would return to

tribes any objects it had obtained illegally and any tribal ceremonial, religious, or funerary objects. The tribes were required to formally apply for the repatriation of the objects, with the board of directors responsible for reviewing the requests. The policy put the museum in line with the intent of the 1990 Native American Graves Protection and Repatriation Act, which had exempted the Smithsonian.

See also *Native American Graves Protection and Repatriation Act (1990); Smithsonian Institution.*

Kristin Teigen

BIBLIOGRAPHY

- "National Museum of the American Indian." National Museum of the American Indian, Washington, D.C., www.nmai.si.edu/.
- Hibbert, Michelle. "Galileos or Grave Robbers? Science, the Native American Graves Protection and Repatriation Act, and the First Amendment." *American Indian Law Review* 23 (1998/1999): 425–458.
- National Museum of the American Indian Act*, Public Law 101-185, 101st Cong., 1st sess. (November 28, 1989).

National Native American Bar Association (NNABA)

The National Native American Bar Association (NNABA) was founded in 1973 by prominent tribal attorneys seeking to coordinate their knowledge and skills in litigation. It was originally called the American Indian Law Association. Although the American Bar Association had by this time desegregated and discontinued its policies of racial and gender discrimination, an organization for American Indian lawyers seemed appropriate and useful, particularly in light of the growing struggles over sovereignty and self-determination in Indian Country.

The membership of the NNABA includes Native American lawyers, judges, law students, and law professors. The NNABA's goals and interests are primarily related to the professional development of its members, but the association also makes policy recommendations on issues of importance to American Indians and tribal governments, and serves as an educational resource for tribes and Indian people on issues such as repatriation, mascots, gaming, and federal recognition.

The NNABA most recently worked on two issues of particular importance to legal education: graduating more tribally enrolled Indians from law school to increase the number of American Indians practicing law and entering the judici-

ary, and encouraging law schools to include federal Indian law in their curricula (in support of an initiative to include questions on Indian law in state bar exams) in regions of the country where such questions are relevant. The NNABA has a “tribal partnerships” program intended to link firms offering pro bono legal services to the tribes that need them.

Several state Native American bar associations occasionally work with the NNABA on issues of interest and importance to Indian Country.

Presidents of the NNABA are drawn from leaders of the American Indian bar nationwide. Past officeholders include several important American Indian attorneys such as W. Richard West Jr. (Cheyenne, 1977–1978), Larry Echohawk (Pawnee, 1979–1983), Lawrence Baca (Pawnee, 1983–1985, 1999–2000), Richard Monette (Turtle Mountain Chippewa, 1997–1998), and Kirke Kickingbird (Kiowa tribe of Oklahoma, 2000–2001).

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BIBLIOGRAPHY

- Funke, Karl A., and Kirke Kickingbird. “The Role of Native Americans in American Legal History.” *Law Library Journal* 69 (1976): 274–294.
- Kucec, Anna Marie. “Native American Bar Association Presidents Talk of Life, Diversity, and Individuality.” *Bar Leader* 22 (1997–1998): 28.
- National Native American Bar Association. www.nativeamericanbar.org.
- Rice, G. William. “Of Cold Steel and Blueprints: Musings of an Old Country Lawyer on Crime, Jurisprudence, and the Tribal Attorney’s Role in Developing Tribal Sovereignty.” *Kansas Journal of Law and Public Policy* 7, no. 31 (1997–1998): 31–72.
- Valencia-Weber, Gloria. “Law School Training of American Indians as Legal-Warriors.” *American Indian Law Review* 20, no. 5 (1995–1996): 5–64.

National Parks and Monuments

The relationship between Native peoples and America’s national parks has been at times beneficial, at other times destructive, and at many times contentious. It began with sporadic violence before the cessation of military hostilities on the frontier. And then it continued for almost a century with mutual suspicion, mistrust, and forced Native removals. Not until the 1970s did a few tribes gain sufficient leverage to negotiate with park management as relative equals. In the twenty-first century, tribes and parks work together as cautious if respectful neighbors toward the goal of preserving a national legacy carved out of aboriginal lands.

In 1872 the United States established Yellowstone, its first national park. The early parks were intended to be natural

monuments—a patriotic version of “God’s country”—that would compete in grandeur with the architectural wonders of Europe. Although the parks inspired national pride, their seclusion hindered development of the tourist infrastructure that they would need later to flourish.

To promote the idea that the parks were unspoiled wilderness, the federal government maintained that they were uninhabited. But that was anything but the case. Just as Yellowstone was the home of the Tukadika tribe (Sheepeater Shoshone), Yosemite National Park, established in 1890, was inhabited by the Yosemite, Mono, and Paiute tribes. When established, virtually every major national park and monument across the West, from the slopes of Glacier National Park (1910) to the desolate flats of Death Valley (1933), was inhabited by Native groups on a seasonal or permanent basis, just as their ancestors had done for generations.

Parks and Indian communities were on a collision course from the beginning. Yellowstone was the site of the frantic army pursuit of the Nez Perces after the battle of Big Hole in 1877, a maneuver that ended with the death of several tourists and that led to a ban on Indians in the park. In 1895 the Blackfeet were strong-armed into selling a strip of land that would become the eastern half of Glacier National Park. Mesa Verde National Park, authorized in 1906, was obtained through intensive negotiations with the Ute Mountain Utes in 1911; the tribe was threatened with the loss of congressional appropriations if it did not trade the land. The notion that the parks were “gifted” by Indians or other owners, a myth that took root in the era of later philanthropists such as John D. Rockefeller, was anything but true for Native peoples.

Many park acquisitions in Indian Country were made possible through the Antiquities Act (Public Law 59-209, 1906), legislation that enabled presidents to set aside public lands through executive order. Even though a major goal of the Antiquities Act was to protect Indian artifacts from widespread looting (the legislation was, however, drafted without Native consultation), many monuments (some of them later national parks) with Native populations and claims were set aside in this manner, among them the Grand Canyon, Devil’s Tower, Navajo, Death Valley, Pipe Springs, and Mount Olympus (later Olympic).

The National Park Service

By the early twentieth century, significant portions of Indian treaty land and ceded territory, most of it in the far West, had been set aside for use as public parks. The creation of the

National Park Service (NPS) in 1916, an Interior Department agency with a mandate for conservation and recreation, professionalized park management. In 1933 the War and Agriculture Departments turned over the last of their park properties to the NPS, centralizing control in one agency.

Although the Park Service was charged with managing these lands, beginning in 1918 it sought commercial allies to develop what Interior Secretary Franklin Lane called a “national playground system” (Lary M. Dilsaver, ed., *America’s National Park System: The Critical Documents*, 1994). The railroads were a key partner in this vision. The Denver and Rio Grande Railroad at Mesa Verde, the Great Northern Railway at Glacier, and the Atchison, Topeka, and Santa Fe Railway at the Grand Canyon, established as a park in 1919, used Native crafts, dancers, postcards, and calendar images to underscore the romance of the Indian West. The railroads, in fact, gave many early park tourists their first glimpse of an American Indian.

By the beginning of the Great Depression, conservationists at Mesa Verde were contemplating a grand new vision: to restore the park to the way it would have looked when *white* people first saw it. Although not formalized as an agency-wide initiative until 1963, this model held that American Indians had been passive onlookers, not active inhabitants who shaped their landscape through wildlife management and prescribed burning. As the parks were maintained to represent this idealized pre-contact period, Indian people were rendered almost invisible.

Meanwhile, Native communities and the NPS learned to coexist in a bewildering variety of neighborhoods. Some reservations shared long borders with parks and monuments (such as the Tohono O’odham reservation near Organ Pipe Cactus Park and the Mountain Ute reservation near Mesa Verde). Other tribes had traditional claims on parkland not contiguous with their reservations (for example, the Salish/Kootenai and Glacier National Park). Some monuments were surrounded by reservation land (such as the Navajo Monument in the Navajo Nation and Pipe Spring on the Kaibab-Paiute reservation). Perhaps most vulnerable, the Timbisha Shoshones in Death Valley were park residents without any land base at all; they resided there at the discretion of NPS authorities.

President Franklin D. Roosevelt’s New Deal heralded a change at the Office of Indian Affairs (OIA), with repercussions in sister agencies. Under OIA commissioner John Collier (1933–1945), the tribes began a spirited legal attack



Native American tipis beside a lake in Rocky Mountain National Park, Colorado. Almost every national park was inhabited by Native Americans at the time of its establishment, further complicating relations between the federal government and Native nations.

against park encroachment. The Havasupai, Ute, Blackfeet, and Lakota tribes filed land claims in federal courts during this period that included tribal areas lost to the park system. The Blackfeet (1935) lost their case, but the Utes (1950) and the Havasupais (1969) would later win theirs and receive monetary settlements as compensation. Collier was also instrumental in creating the Indian Arts and Crafts Board in 1935, an office that worked to protect Native artisans against mass-produced items at parks and other tourist sites.

But the Collier revival did not last. The period known as termination, beginning in the late 1940s, saw the backsliding of Native land and cultural protection. At Glacier, the Blackfeet argued with park management over grazing and hunting rights, fencing practices, and development projects. At Mesa Verde, the government sought to expand the park into Mancos Canyon on the Mountain Ute reservation. By the 1960s, the Oglala Lakotas were watching as government machinery transferred a large part of their reservation, set

aside as a gunnery range during World War II, to the Badlands National Monument. In the Grand Canyon, the Havasupais fought removal from the base of the canyon, their presence still an embarrassment to park authorities. The period was a harsh reminder that fluctuations in federal Indian policy ensured that Indian rights were never secure.

Sovereignty and Partnerships

Several factors helped reverse the ebb tide of Indian rights that accompanied termination. The civil rights movement of the 1960s advanced the general cause of minority recognition. And the end of termination in the early 1960s created a more auspicious political climate for tribal advocacy. Some decade and a half later, the Indian Self-Determination and Education Assistance Act (Public Law 93-638, 1975) was a step forward for tribal self-government and sovereignty.

This period saw a renewal of Indian advocacy in the parks. The Grand Canyon National Park Enlargement Act (Public Law 93-620, 1975), for example, expanded the small Havasupai reservation by 185,000 acres, even if land use was severely curtailed by the Department of the Interior. The debate that led to the law revealed the complicated nature of modern politics. The legislation was approved by the Havasupais, who lived on the reservation, resisted by the neighboring Hualapais, who disputed the placement of the park border, and opposed by conservationists, who did not want to surrender parkland, even to a tribe. The relationship among parks, tribes, and conservationists was rapidly becoming more complicated.

Nowhere is this complicated relationship better seen today than at Olympic National Park in Washington State. Numerous tribal reservations surround the park, including the Makah, Quinault, Skokomish, Jamestown, and Lower Elwha. This arrangement has made for a patchwork quilt of relations with the NPS, because the original national monument was established through the Antiquities Act in 1909. Issues have ranged from entrance fees and co-management policies to fishing and hunting rights, dam removals, and land claims. Indeed, the Park Service has now learned from experience at the Grand Canyon, Mesa Verde, and elsewhere that a “one-size-fits-all” policy does not work with a variety of bands and tribes.

Death Valley National Park offers a singular case study of park-Indian relations that goes back to the Great Depression. Created as a national monument in 1933 through the Antiquities Act, Death Valley had been home to the Timbisha Shoshones and their ancestors for almost a

thousand years. Before the land was declared a monument by outgoing president Herbert Hoover, the borax industry had mined the valley. Indeed, the first two NPS directors, Stephen Mather and Horace Albright, had personal and professional connections to the industry.

The years after 1933 were difficult ones for the Timbisha. Most of the Shoshones were chased away from the Valley springs, and some were forced to sell their allotted land. A few dozen continued living under the watchful eye of the Park Service in the Furnace Creek area, employed as hotel maids and maintenance workers, when employed at all. Almost seventy years passed before the Timbisha Shoshone Homeland Act (Public Law 106-423, 2000) awarded the tribe over seven thousand acres of trust land. Some of the land was within the NPS area, upgraded from a monument to a national park in 1994.

At the opposite end of the country, the Florida Seminoles faced no less a struggle at Everglades National Park. The Seminoles were romanticized in pre-park tourist literature to highlight the “wildness” of the land and encourage commercial investment. At the same time, before the park was dedicated in 1947 they were removed from traditional camps within the Everglades and relocated with the help of the Bureau of Indian Affairs (BIA, formerly Office of Indian Affairs, OIA). Today, the Miccosukees, a related tribe, have a special-use trust area within the park, but they have argued with the NPS over housing facilities and clean water provisions in recent years.

National parks have followed a different course in the far north. Because most parkland in Alaska was not established until 1980, management principles there reflect a more modern conservation ethic. Most of Alaska’s new parks permit subsistence hunting and trapping, whether by Indians, Eskimos, or whites, a rarity in the rest of the nation’s parks. Although indigenous peoples and park administrators have practiced co-management in some areas, it is still controversial. Debates have erupted over whether modern technology should be used to hunt in the parks, whether Native peoples must use primitive means in order to live off the land, and whether the presence of resident peoples in the parks jibes with modern principles of conservation in the first place.

In Hawaii, the NPS and Native Hawaiians have formed a variety of useful partnerships. At Haleakala, a cooperative agreement encourages interpretation of traditional Hawaiian culture, and the Office of Hawaiian Affairs supports a living farm project for educational purposes. At Koloko-Honokohau National Historical Park, an advisory council that includes Native Hawaiians has revised the interpretation

of park literature and displays and assisted in the planning of a live-in educational center.

Not every park project in Indian Country has been welcomed during the planning stages. Suspicion of motives and concerns about the effects of mass tourism have killed many would-be parks on or near Indian trust land. In 1923 Interior Secretary Albert B. Fall attempted to convert two thousand acres of the Mescalero Apache reservation into a national park adjacent to his personal property before the bill was killed in Congress. (Fall later resigned in disgrace over the Teapot Dome Scandal.) During the depression in the 1930s, the BIA blocked a national park on the Menominee reservation in Wisconsin. In the last quarter-century, legislative attempts to create parks or monuments on the Pine Ridge reservation (commemorating Wounded Knee) and the Zuni reservation have withered for lack of unified local support.

A New Compromise

Many parks today grant tribal members special privileges. Only people of American Indian descent, for example, are permitted to quarry stone at Pipestone National Monument in Minnesota. The Oglala Lakotas possess limited hunting rights and share gate proceeds in the south unit of Badlands National Park. For members of many tribes with traditional claims on parkland, park entrance fees are waived at the discretion of the local NPS authorities. In many parks and other NPS sites, nonresident Native peoples are given limited gathering rights for plants and herbs and the right to hold religious ceremonies, usually through special permit.

Some tribes have established their own parks on a par with national sites such as Mesa Verde. Among them are Monument Valley (Navajo, Diné), Ute Mountain Tribal Park (Mountain Ute), and Puye Cliff Dwellings (Santa Clara Pueblo). In many tribal parks, a working partnership with the NPS has resulted in the development of training programs for Native staff members. The passage of the Native American Graves Protection and Repatriation Act (Public Law 101-601, 1990) has encouraged greater cooperation between the Park Service and tribes.

Over time, then, the NPS has slowly opened its doors to Indian peoples and history. It is no longer uncommon to see tribal members employed at the parks in highly public, interpretive positions. Properties ranging from parks to historic sites are coming into balance with the historiography of recent decades. The location of the Sand Creek Massacre (1864) was established by Congress as a national historic site

in 2000 and opened to the public in 2007. The politics of commemorating such a site would have been untenable a generation ago. Even well-known sites such as Little Bighorn Battlefield National Monument have been affected. There, a name change (formerly "Custer Battlefield"), a monument to Native warriors, and an increasing Indian presence in interpretation have been instituted.

On balance, the parks have brought a mixed legacy to Indian Country. Tribal lands taken by force or coercion have been transformed into some of the best-known "playgrounds" in America. Indian peoples were removed from land and Native subsistence rights were denied or severely curtailed so tourists could hike, camp, dine, and enjoy the scenery. Religious sites fell into the hands of people who knew nothing of traditional ways.

But the balance sheet has not been entirely negative. Tribal businesses have profited from park tourism, even if they have rarely been granted major concessions. The NPS has provided tribal people with valuable training and employment. And with the buffer of adjacent parkland, many tribes have been spared the prospect of unregulated commercial development on their doorstep. Often apprehensive of each other, parks and tribes continue to work on improving an uneasy coexistence.

See also *Bureau of Indian Affairs*; Collier, John; Fall, Albert B.; *Indian Self-Determination and Education Assistance Act (1975)*; *Native American Graves Protection and Repatriation Act (1990)*; *Railroads*; *Sand Creek Massacre (1864)*; *Termination and Restoration*.

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BIBLIOGRAPHY

- Burnham, Philip. *Indian Country, God's Country: Native Americans and the National Parks*. Washington, D.C.: Island Press, 2000.
- Catton, Theodore. *Inhabited Wilderness: Indians, Eskimos, and National Parks in Alaska*. Albuquerque: University of New Mexico Press, 1997.
- Dilsaver, Lary M., ed. *America's National Park System: The Critical Documents*. Lanham, Md.: Rowman and Littlefield, 1994.
- Ise, John. *Our National Park Policy: A Critical History*. Baltimore: Johns Hopkins University Press, 1961.
- Keller, Robert H., and Micheal F. Turek. *American Indians and National Parks*. Tucson: University of Arizona Press, 1998.
- Krech, Shepard, III. *The Ecological Indian: Myth and History*. New York: Norton, 1999.
- Runte, Alfred. *National Parks: The American Experience*. Lincoln: University of Nebraska Press, 1979.
- Sellers, Richard West. *Preserving Nature in the National Parks: A History*. New Haven, Conn.: Yale University Press, 1997.
- Spence, Mark David. *Dispossessing the Wilderness: Indian Removal and the Making of the National Parks*. New York: Oxford University Press, 1999.

West, Patrick, and Steven Brechin, eds. *Resident Peoples and National Parks*. Tucson: University of Arizona Press, 1991.

National Tribal Chairmen's Association (NTCA)

At an April 22–23, 1971, meeting in Pierre, South Dakota, tribal leaders representing several federally recognized tribes organized the National Tribal Chairmen's Association (NTCA). These leaders were particularly concerned about the needs and problems of Indian peoples residing on reservations, as opposed to the issues facing those residing off the reservations and in cities. The NTCA elected four officers and a twelve-member board of directors. The organization's motto was "Unity—Strength—Justice."

The NTCA emerged at a critical juncture in the evolution of federal Indian policy. Whereas in the 1950s and 1960s the federal government had pursued the termination of its responsibilities toward Indian peoples, in the 1970s President Richard Nixon's administration abandoned this policy and instead embraced Indian rights and self-determination. While virtually all tribes applauded the end of termination, several Native voices began contending with one another to promote their particular vision of Indian sovereignty and self-determination. Over the course of the next two decades, the NTCA competed with the National Congress of American Indians (NCAI) and the controversial American Indian Movement (AIM) to be recognized as the legitimate "voice" of America's diverse Indian communities.

By the early 1980s, the NTCA included more than 250 of the nation's tribal chairs, chiefs, and governors and served as a watchdog over the federal government's trust obligations, its management of Indian assets and federal services, and its duty to protect tribal sovereignty. By the end of the decade, however, the NTCA stood at the brink of dissolution as a result of growing internal dissension regarding its relationship with other national Indian organizations and its failure to gain recognition as the ultimate authority on Native needs. The organization was no longer in existence by the early twenty-first century.

See also *American Indian Movement (AIM)*; *National Congress of American Indians (NCAI)*; *Self-Determination*; *Termination and Restoration*.

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BIBLIOGRAPHY

Cornell, Stephen. *The Return of the Native: American Indian Political Research*. New York: Oxford University Press, 1990.

Native American Church (NAC)

The Native American Church (NAC), a pan-Indian religious movement and organization, is principally known for the sacramental and medicinal use of peyote, a hallucinogenic cactus plant native to northern Mexico and southern Texas around the Rio Grande Valley.

Although the use of peyote among Mexican tribes has roots thousands of years before European contact, religious utilization of peyote by American Indian tribes dates from the nineteenth century. Peyote use closely followed the forced relocation of southern Plains tribes to reservations in the Indian Territory (present-day Oklahoma). Faced with worsening poverty and social dislocation associated with the difficult transition to reservation life, some Natives sought solace in new religious expressions, many of which offered unity and hope or a return to the "old" ways before white encroachment. While the Ghost Dance is perhaps the more famous of the spiritual responses to this decline in Indian conditions, it was relatively short-lived.

The peyote religious movement began around 1885 with the Kiowas and Comanches and began spreading to other tribes after 1890. The movement's ethical code, often termed the "Peyote Road," originally focused on the desperate reservation conditions and offered hope by emphasizing brotherhood, hard work, and sobriety. In this sense, it resembled messages promoted by Christian missionaries. The movement benefited from the activities of leaders, or "roadmen," who spread the gospel across Native America. Quanah Parker, a Comanche chief who apparently took peyote in Mexico in the 1880s for medicinal purposes, subsequently became a leading advocate for the legal use of the substance in the United States before his death in 1911. Similarly, John Wilson was influential as a peyote roadman and established a substantial following by 1880. While Parker's and Wilson's preachings differed slightly, both represented a blending of traditional Indian and Christian beliefs with Jesus as a central figure. The movement gained momentum, many believe, through institutions such as the Carlisle Industrial School in Carlisle, Pennsylvania, where individuals from geographically and culturally varied backgrounds became exposed to its teachings. Railroads also facilitated the travel of roadmen, and with them the Peyote Road.

Controversial from the start due to peyote's role in the religion, practitioners operated under the threat of possible legal action against them. U.S. authorities became concerned with peyote use on reservations in the late 1880s, fearing it to

be a dangerous and habit forming substance. (Mescaline is one of the alkaloids found naturally in the cactus, but studies have not proven that it is habit-forming.) Laws were passed in 1899 in Oklahoma in an attempt to stop peyote use. Peyote religious leaders, supported and encouraged by James Mooney, a Smithsonian anthropologist, convened in order to try to protect the practice, and the NAC was officially established for this purpose in 1918 in El Reno, Oklahoma.

Conversely, some tribes have enacted anti-peyote laws, most notably the Navajos, who banned it from 1940 to 1967, a decision legally condoned in the 1959 case *Native American Church v. Navajo Tribal Council*, settled by the U.S. District Court of New Mexico.

The NAC won implied protection of its peyote use with passage of the 1978 American Indian Religious Freedom Act, and several states exempt the religious use of peyote from their drug laws. Controversy returned, however, with the 1990 Supreme Court case *Employment Division v. Smith*, in which two men claimed that their freedom of religion had been violated when the state of Oregon refused to pay them unemployment benefits after they had been fired from their jobs for testing positive for peyote, an illegal substance under state law. The Court held that a state may deny unemployment benefits even if the banned substance was used in religious rituals. Congress answered with the 1993 Religious Freedom Restoration Act. Throughout the 1990s a string of cases sought to reaffirm Indian religious rights against new declarations that claimed religious freedom did not transcend otherwise valid state laws.

The NAC's Peyote Road stresses abstinence from alcohol, hard work, and devotion to family. Many practitioners regard it as having an important current and historical role in Indian unification and maintain that it helps lessen the pressures of living as an Indian in a non-Indian dominated society. The NAC is the principal Indian religion in the western states, and it has been estimated that its membership totals 25 percent of the Indian population.

See also *American Indian Religious Freedom Act (AIRFA; 1978)*; *Employment Division v. Smith (1990)*; *Carlisle Indian School; Parker, Quanah; Religious Freedom; Wounded Knee Massacre (1890)*.

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BIBLIOGRAPHY

- Anderson, Edward F. *Peyote, the Divine Cactus*. Tucson: University of Arizona Press, 1980.
- Hultkrantz, Ake. *The Attraction of Peyote: An Inquiry into the Basic Conditions of the Diffusion of the Peyote Religion in North America*. Stockholm, Sweden: Almqvist and Wiksell International, 1997.

La Barre, Weston. *The Peyote Cult*. 5th ed. Norman: University of Oklahoma Press, 1989.

Native American Church of North America v. Navajo Tribal Council, 272 F.2d 131 (10th Cir. 1959).

Religious Freedom Restoration Act of 1993, Public Law 103-141, 103rd Cong., 1st sess. (November 16, 1993).

Slotkin, James Sydney. *The Peyote Religion: A Study in Indian-White Relations*. Glencoe, Ill.: Free Press, 1956.

Stewart, Omer C. *Peyote Religion: A History*. Norman: University of Oklahoma Press, 1987.

White, Phillip H. *Peyotism and the Native American Church*. Westport, Conn.: Greenwood Press, 2000.

Native American Graves Protection and Repatriation Act (NAGPRA; 1990)

In 1990 Congress enacted the Native American Graves Protection and Repatriation Act (NAGPRA), signaling a change in federal policy on the collection of Native American remains.

NAGPRA was the result of decades of struggle by Native American activists to obtain the same protections for Native American burials that had long existed for European and later American burials. For centuries, Euro-American law has declared that no one can own the dead and that desecrating a burial site is a crime. Because Native Americans used different burial practices—they did not bury their dead in cemeteries that were recognizable as such to Euro-Americans—those laws did not extend to Native American burials. Thus despite the laws that have protected their own cemeteries, Euro-Americans have a long history of disrespect for Native American burials, treating them as curiosities to be collected and studied.

For many years, museums and private entities collected and displayed Indian skeletons, even turning burial sites into roadside attractions, such as the Indian Burial Pits in Kansas and the Dickson Mounds in Illinois. These practices were offensive to many Native Americans, because many tribes believe that a connection exists between their ancestors and both present and future generations, and that removing skeletons and burial artifacts from their burial sites disrupts that connection. In the late 1980s, congressional hearings revealed that over 43,000 Indian remains were in museums, 18,000 of them in the Smithsonian Institution. NAGPRA created procedures for returning the remains and other artifacts in museums other than the Smithsonian Institution to tribes.

NAGPRA regulates three major activities: inventory and summary, repatriation, and excavation. The act defines

"Native American" as "of, or relating to, a tribe, people, or culture . . . indigenous to the United States." This definition encompasses Alaska Natives, Indian tribes, and Native Hawaiians. Once human remains or other listed objects are established to be Native American, the statute's inventory requirements apply, as do the repatriation procedures.

The statute requires all museums receiving federal funds, except the Smithsonian, to inventory holdings of Native American funerary objects (objects placed with human remains as part of a death rite or ceremony), sacred objects (objects needed by traditional spiritual leaders for religious practices), and objects of cultural patrimony (objects with ongoing historical or cultural importance to the group as a whole). Museums are required to share summaries of their holdings with tribes. Tribes meeting statutory standards may request objects be repatriated. Although NAGPRA does not apply to the Smithsonian, the 1989 National Museum of the American Indian Act does, and it contains similar provisions.

Cultural affiliation is the touchstone for repatriation; to establish cultural affiliation a present-day group of Native Americans must demonstrate with reasonable certainty a relationship of shared group identity with an identifiable earlier group. Once the cultural affiliation standard is met, the statute establishes a priority list of who can make a repatriation claim. Lineal descendants have highest priority, followed by the tribe on whose lands the items were found, and then the tribe who can show the closest cultural affiliation. If cultural affiliation cannot be ascertained, a repatriation claim may be made by a tribe who prevailed in Claims Commission litigation regarding control of the area. A museum need not repatriate unassociated funerary objects, objects of cultural patrimony, and sacred objects if the museum can show it acquired the objects legally. If a culturally affiliated person or tribe requests repatriation of associated funerary objects, however, the museum must repatriate regardless of the method of acquisition. Associated funerary objects are those known to have been buried with a specific body whose location is known.

After its passage, NAGPRA created a rift among archaeologists, anthropologists, and museum professionals. The camp opposed to NAGPRA argued it would allow tribes to drain large quantities of artifacts from museums, where they could be studied and displayed for public view. Another camp joined many Native Americans in arguing that prior laws and professional standards had prioritized Western values over those of tribes and treated Indian remains differently from those of Euro-Americans. This dispute, as well as the

boundaries of NAGPRA, is illustrated by the case of the Kennewick Man, which centered on control of a nine-thousand-year-old skeleton found in the Pacific Northwest. Scientists wanted to study the skeleton, because it was one of the oldest and best preserved skeletons found in North America. A coalition of tribes living in the area sought to repatriate the skeleton and rebury it. After protracted litigation, a federal appeals court ruled that NAGPRA did not apply and allowed scientific study to continue.

NAGPRA creates a seven-member advisory committee to monitor and assist in its implementation, as well as make recommendations on the appropriate disposition of disputed and culturally unidentifiable remains.

NAGPRA also declares that anyone planning to conduct archaeological research on federal or tribal lands must obtain the proper permits under the 1979 Archaeological Resources Protection Act, and, before removing any human remains, must consult with the relevant tribe and comply with NAGPRA's disposition rules. If Native American remains are discovered inadvertently, activity must cease for a prescribed period of time, the site must be protected, and the parties identified in the statute must be consulted before the project resumes.

See also *Archaeological Resources Protection Act (1979); Kennewick Man; Religious Freedom; Sacred Sites; Smithsonian Institution.*

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BIBLIOGRAPHY

- Native American Graves Protection and Repatriation Act*, Public Law 101-601, 101st Cong., 2nd sess. (November 16, 1990).
- Lannan, Robert W. "Anthropology and Restless Spirits: The Native American Graves Protection and Repatriation Act, and the Unresolved Issues of Prehistoric Human Remains." *Harvard Environmental Law Review* 11 (1998): 369-439.
- Trope, Jack F., and Walter R. Echo-Hawk. "The Native American Graves Protection and Repatriation Act: Background and Legislative History." *Arizona State Law Journal* 24 (1992): 35-77.
- Tsosié, Rebecca. "Indigenous Rights and Archaeology." In *Native Americans and Archaeologists: Stepping Stones to Common Ground*, edited by N. Swidler et al., 64-76. Walnut Creek, Calif.: Altamira, 1997.
- . "Privileging Claims to the Past: Ancient Human Remains and Contemporary Values." *Arizona State Law Journal* 31 (1999): 583-677.
- Yasaitis, Kelly E. "NAGPRA: A Look Back through the Litigation." *Journal of Land Resources and Environmental Law* 25 (2005): 259-285.

Native American Languages Act (1990)

In the early twenty-first century, over 150 languages were still being spoken by American Indian communities. Hundreds more had either been lost or were no longer utilized. Previously, these languages were seen by the United States government as an impediment to the assimilation of Native tribes into white society. In 1868 the federal Indian Peace Commission specifically asserted that the government should require Native children to speak only English in their schools.

This policy officially changed in 1990 with the passage of the Native American Languages Act. The act states that “it is the policy of the United States to preserve, protect and promote the rights and freedom of Native Americans to use, practice and develop Native American Languages.” It allowed tribes to establish a traditional Native language as the official language of their nation. This provided tribal nations with the ability to use their traditional language in internal tribal administration. The act also provided that public school systems must recognize proficiency in a Native language as an acceptable qualification for teachers and required federally supported educational institutions to accept such proficiency toward the completion of any foreign language requirement.

The act resulted from a growing concern among American Indians over the loss of Native languages and the rising prominence of the English-only movement. In 1988 a grassroots effort to address the issue was organized at the International Conference of the Native American Languages Issues Institute. Leaders at the conference formulated a series of resolutions that were sent to the Select Committee on Indian Affairs. The committee’s chair, Senator Daniel Inouye (D-HI), compiled the resolutions into a single bill. This bill then was adapted over two years in consultation with Native leaders and academic specialists and signed into law in April 1990.

While some Native leaders criticized the legislation as being merely symbolic, Senator Inouye sponsored additional legislation, the Native American Languages Act of 1992, which provided funding for Native language instruction in public schools and through private educational institutions. In 2000 the Native American Languages Amendments Act was introduced but never passed. This legislation would have provided for the creation of Native American language survival schools.

See also *Assimilation and Acculturation; Indian Peace Commission; Inouye, Daniel.*

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BIBLIOGRAPHY

- Dussias, Allison M. “Waging War with Words: Native Americans’ Continuing Struggle Against the Suppression of Their Languages.” *Ohio State Law Journal*, vol. 60 (1999): 901–993.
- Finegan, Edward, and John R. Rickford, eds. *Language in the USA: Themes for the Twenty-first Century*. New York: Cambridge University Press, 2004.
- Fife, James. “The Legal Framework for Indigenous Language Rights in the United States.” *Willamette Law Review*, vol. 41 (Spring 2005): 325–371.
- Hale, Ken, et al. “Endangered Languages.” *Language*, vol. 68, no. 1 (March 1992): 1–42.

Native American Programs Act (NAPA; 1974)

The Native American Programs Act (NAPA) of 1974 was enacted by the U.S. Congress to promote the economic welfare and self-sufficiency of American Indians, Native Hawaiians, Alaska Natives, Native American Pacific Islanders, American Samoans, the Native people of Guam, and the Native people of Northern Mariana Islands. These groups are all culturally diverse in tradition and language, and each faces specific economic and social challenges.

The act provides for three primary grant programs: the Social and Economic Development Strategies program (SEDS), the Environmental Regulatory Enhancement program, and the Language Preservation and Maintenance program. The goal of the SEDS program is to help Native Americans reduce their dependency on public funds and social services by increasing community development. It provides financial grants to support projects determined and designed by Native communities. The Environmental Regulatory Enhancement program seeks to improve tribes’ capacities to regulate environmental activities by assisting them in the planning, development, and implementation of multiple projects associated with particular concerns. The Language Preservation and Maintenance program is designed to guarantee the continuation and enhancement of Native American languages.

Some examples of community projects that have been implemented under the act include instruction in Hawaiian organic farming for at-risk children, the Colorado Native American Sports Council, and the Cherokee Nation’s school-based language programs.

See also *Self-Determination*.

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BIBLIOGRAPHY

Native American Programs Act of 1974, Public Law 93-644, 93rd Cong., 2nd sess. (January 4, 1975).

Stamps, Quanah Crossland. "Testimony." *United States Department of Health and Human Services*, June 8, 2004, www.hhs.gov/asl/testify/t040608c.html.

Native American Rights Fund (NARF)

The Native American Rights Fund (NARF) is a nonprofit, nonpartisan organization "dedicated to asserting and defending the rights of Indian tribes, organizations and individuals nationwide." Through input in the policy making process and litigation, NARF works in five areas of interest as outlined in the organization's mission statement: preserving the tribal existence, protecting tribal natural resources, promoting Native American human rights, seeking governmental accountability to Native Americans, and developing American Indian law and public education on American Indian issues, laws, and rights.

NARF was established in 1970 with a grant from the Ford Foundation as a special project of California Indian Legal Services. The organization is based in Boulder, Colorado, with branch offices in Washington, D.C., and Anchorage, Alaska.

NARF's purview is nationwide. Its attorneys have represented the interests of more than 250 tribes across the United States in cases dealing with issues such as tribal sovereignty, economic development, federal recognition and restoration, preservation of tribal culture and traditions, protection of tribal lands, and enforcement of treaty rights.

The list of cases in which NARF has litigated or played a role is long. According to Indian scholar Jack Utter, NARF has litigated in every state and on nearly every issue within the "complex field of American Indian law." Among these cases are several landmark suits, including *Passamaquoddy Tribe v. Morton* (1st Cir. 1975), which set precedent that laid the groundwork for the Maine Indian Settlement Act of 1980. This act called for federal recognition of the Penobscot, Passamaquoddy, and Maliseet tribes, as well as \$81.5 million in compensation for land taken during the colonial era. The tribes used some of that settlement money to buy back 300,000 acres of that land and to set up successful tribal business ventures and infrastructure on their reservations.

In fulfilling other areas of its mission statement, NARF has provided legal counsel to the Pawnee tribe in Oklahoma in its legal struggles to secure repatriation of ancestral remains in its indigenous Nebraska territory; to the Klamath tribe in Oregon in its assertion of tribal water rights; to the National Congress of American Indians on behalf of tribes nationwide in securing protection for tribal religious and sacred sites; and to several Alaska Native villages in seeking enforcement of the Alaska Native Claims Settlement Act of 1971.

NARF is currently providing attorneys for the extensive, ongoing *Cobell* litigation. In the settlement talks resulting from *Cobell v. Babbitt* (now *Cobell v. Norton*), NARF attorneys are seeking accountability from the Bureau of Indian Affairs in its mishandling of tribal trust funds, as well as compensation for the 500,000 Indian people affected by the mismanagement of the individual trust accounts. The final settlement is likely to be in the tens of billions of dollars, certainly the largest settlement to American Indians in the history of the United States.

Aside from its litigation work, the Native American Rights Fund has established several resources for American Indian attorneys and policy makers. In 1972, using funds from the Carnegie Corporation, NARF's board of directors established the Indian Law Support Center to provide aid and advice to individual local legal services across the country. NARF also was instrumental in founding the American Indian Bar Association in 1973 (which later became the National Native American Bar Association) and in providing impetus for professional organizations across Indian Country. In 1978 friends of NARF launched a National Support Committee, intended to help NARF raise funds for and publicize its litigation efforts. NARF's national headquarters houses the National Indian Law Library, one of the most significant collections of primary documents in the field of American Indian Law. NARF also runs an Indian Lawyer Intern Program in which American Indian law students receive valuable legal experience while serving tribal communities.

NARF is governed by a volunteer thirteen-member board of directors. David Getches was the founding director, and in 1973 John Echohawk (Pawnee) became the first American Indian director of the board. The first staff attorneys hired included Robert Pelcyger, Echohawk, and Charles Wilkinson, all of whom have gone on to illustrious careers in the fields of Indian law and legal scholarship.

NARF employs fifteen staff attorneys, hired from within Indian Country. These attorneys work on about fifty cases a year, as well as provide legal advice and consultation for

tribes drafting governing documents and tribal codes and establishing and maintaining tribal court systems.

See also Cobell *Litigation*; Echohawk, John; *Land Claims Settlement Acts*; *National Native American Bar Association*; Passamaquoddy Tribe v. Morton (1975); *Sacred Sites*.

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BIBLIOGRAPHY

Johnson, Ralph W. "Indian Tribes and the Legal System." *Washington Law Review* 72 (October 1997): 1021–1041.

Native American Rights Fund. *Our First Twenty Years*. Boulder, Colo.: Native American Rights Fund, 1990, www.narf.org.

Passamaquoddy Tribe v. Morton, 578 F.2d 370 (1st Cir. 1975).

Native Hawaiians

Native Hawaiians, although not Indians in either an ethnic or a legal sense, are nevertheless the original inhabitants of a territory that is now part of the United States.

According to the 2000 U.S. Census, more than 400,000 U.S. citizens have identified themselves as Native Hawaiian. Of these, nearly 240,000 reside in the Hawaiian Islands, where they make up some 20 percent of the population of the state of Hawaii. Since 1921, Congress has enacted laws directed at Native Hawaiians and has included Native Hawaiians in the many laws that since 1974 have provided Native Americans with benefits and protections. Recently, however, the legal status of Native Hawaiians has become clouded, because in 2000 the Supreme Court decision in *Rice v. Cayetano* raised concerns about the continued viability of laws passed that affected Native Hawaiians absent an organized Native Hawaiian government and formal recognition by the United States.

Historical Background

The Hawaiian Islands were isolated from Western European contact for centuries until English explorer Capt. James Cook arrived in 1778. Up to this period, each high chief, or *ali'i nui*, controlled a district of an island or an entire island. Because the high chiefs often fought among themselves for control of territory, the islands were periodically unstable. Local chiefs, the *ali'i* or *konohiki*, controlled specific lands, which commoners, or *maka'ainana*, worked. Typically, lands were divided into parcels defined by boundaries radiating from a point on a mountaintop down to sea level in order to enclose a drainage area. Each parcel, known as an *ahupua'a*, was an economically self-sufficient tract of land

that usually included forests, farmland, fresh water, and access to the sea.

Operation of the Hawaiian land tenure system was based on a tributary system in which a portion of everything produced went to the chiefs. Hawaiians considered land to be held for the common benefit. If the *maka'ainana* believed they were being treated unfairly, they could simply move to another parcel because they were not tied to the land.

In Hawaii, land transactions between outsiders and the indigenous inhabitants were originally quite different from similar ones on the mainland United States. As the newly formed United States expanded west, it acquired Indian lands by treaties, many coerced by the use or threat of force, because the government claimed a trust relationship over tribal lands. In general, each tribe was treated as an individual political entity, and although several tribes were often parties to a given treaty, there was little or no political unification of Indian tribes on the mainland.

By contrast, and perhaps because of their geographic isolation and relative proximity to one another, Native Hawaiians unified in 1810 to form a monarchy under the Big Island's King Kamehameha the Great. The availability of superior war-fighting technology is often credited with the rapid unification of the Hawaiian Islands within a few decades of Western contact. Once the Europeans arrived, Kamehameha quickly consolidated the largest islands by purchasing European guns and ships to invade and conquer the other islands.

The Sovereignty of Hawaii

Political unification was instrumental in dealing with the influx of foreign traders beginning in the nineteenth century. In addition to preserving the existing tributary land tenure system, the Hawaiian Kingdom provided governmental leadership for the islands by concluding a series of treaties with foreign governments, including Denmark (1846), Sweden (1852), Belgium (1862), the Netherlands (1862), Italy (1863), Spain (1863), Switzerland (1864), Russia (1869), Japan (1870), Austria-Hungary (1875), and Portugal (1882).

As a result, throughout the nineteenth century the Kingdom of Hawaii was acknowledged to be a sovereign and independent state within the international community. As such, it also entered into numerous treaties with the United States, which wanted to diminish the influence of other foreign powers. U.S. Secretary of State James G. Blaine stated that United States policy "has been based upon our belief in the real and substantial independence of Hawai'i.



In this 1897 cartoon, Uncle Sam waits for a new territory, including the Kingdom of Hawaii, to fall under U.S. control. In the 1970s, Congress began to include Native Hawaiians in laws concerning Native Americans.

The government of the United States has always avowed and now repeats that, under no circumstances, will it permit the transfer of the territory or sovereignty of these islands to any of the European powers” (quoted in Alice Felt Tyler, *The Foreign Policy of James G. Blaine*, 1927).

Nearly a century later, in an apology for the U.S. conquest of Hawaii, Congress acknowledged that “from 1826 until 1893, the United States recognized the independence of the Kingdom of Hawaii, extended full and complete diplomatic recognition to the Hawaiian government, and entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887.” The 1842 treaty is of interest, because President John Tyler explicitly recognized the sovereignty of the Kingdom of Hawaii and declared that U.S. policy was to support Hawaiian independence. Tyler’s secretary of state, Daniel Webster, wrote that “the Government of the [Hawaiian] Islands ought to be respected; that no power ought either to take possession of the islands as a conquest, or for the purpose of colonization; and that no power ought to seek for any undue control over the existing [g]overn-

ment” (Kuykendall, *A History of Hawai’i*, 1926). It is important to note, however, that the treaties between the United States and the Kingdom of Hawaii treated Native Hawaiians as a collective political entity, not an ethnic group.

Ownership of Hawaiian Land

Despite treaty language supporting its independence, in the mid-nineteenth century the Hawaiian government began to encounter substantial foreign interference in its domestic affairs. The United States gave advice to the Hawaiian government, usually unsolicited and in the shadow of a U.S. military presence. When foreigners began to want land for themselves, the land tenure system came under pressure. Originally, no formalized land titles existed, because the property interests of the king, the chiefs, and the commoners were intertwined. However, pressure from Westerners who wanted to own land in fee simple resulted in a series of developments that transformed Hawaiian land tenure relationships.

In 1840, on the advice of Westerners, King Kamehameha III promulgated a written constitution. Significantly, it declared that the monarchy controlled the land of the kingdom for the benefit of the chiefs and the people who owned the land collectively. Pursuant to this initial formal declaration clarifying land ownership in the kingdom, the “Great Mahele” of 1848 effected a division of the lands so that clear title could be determined and transferred. The *mahele* (literally “division”) required that the king quitclaim his interest in about 1.5 million acres of *ahupua’a* and other lands so that they could be passed to 245 chiefs and designate another 1.5 million acres of government lands for “the chiefs and people of my Kingdom [and set aside one million acres of crown lands] for me and for my heirs and successors forever, as my own property exclusively” (*In re Estate of Kamehameha* [1864]). The *mahele* thus vested title in the king and the chiefs and imposed descendancy requirements on the crown lands.

The common people never received lands as originally anticipated by the land commission that recommended the *mahele*. In fact, very little land ever reached individual commoners. An intended remedy for the concentration of land outside commoners’ hands was the provision of an 1850 act that allowed tenants to apply for *kuleana*—a small parcel that they actually cultivated and a house lot. But many of those eligible for *kuleana* did not receive them because they could not afford the survey costs or meet other requirements of the law. Thus less than 1 percent of Hawaii’s land was actually distributed as *kuleana*. Not only did the *mahele* fail to distribute land widely among natives, but it also ultimately result-

ed in large amounts of some of the best Hawaiian land passing to foreigners. The *mahele* and the laws passed soon afterward effectively lifted the restriction on alienation of property that had been imposed by the 1840 constitution.

The government and crown lands were thereafter sold whenever the king approved. The chiefs had incurred large debts, which they repaid with land. Some attempted plantation farming, but they failed and lost their land through mortgage foreclosure. The king was free to sell, lease, or mortgage his crown lands as he pleased, and the government sold considerable acreage, often at low prices. To halt the loss of lands in this way, the Hawaiian legislature, after a court ruled that crown lands could be passed down only to the successors of the king, declared in 1865 that crown lands were inalienable.

Although the *mahele* did not accomplish many of its intended objectives, it did lay the groundwork for the future establishment of a trust relationship between Native Hawaiians and the United States. The lands set aside as crown and government lands eventually became the basis for a land trust for Native Hawaiians.

U.S. Annexation

By the 1880s, U.S. officials were viewing the Kingdom of Hawaii as part of the American continental system. It was a colony in substance, if not in form, so that efforts by another foreign power, such as England or Japan, to colonize the islands would have been regarded as acts in defiance of the U.S. strategic interests in the Pacific.

U.S. officials and presidents as far back as Ulysses S. Grant had suggested the idea of voluntary annexation of the Kingdom by the United States, but it was American and European plantation owners who initiated the chain of events by which Hawaii formally became a territory of the United States. In 1887, having consolidated their economic gains into political dominance, these primarily American Westerners forced the resignation of the prime minister of the Kingdom of Hawaii and later the adoption of the new "Bayonet Constitution," so-called because it was literally forced on the king at gunpoint with the help of armed vigilante groups. The king was stripped of power, and the Hawaiian government was run by a U.S.-dominated cabinet. Thus the constitution greatly increased the political role of foreigners. In addition, non-Hawaiians were allowed to vote. King Kalakaua's displeasure with the Bayonet Constitution moved him to propose restoration of his power. However, attempts to reach that goal were all unsuccessful. The pres-

ence of U.S. military forces in Hawaii helped to discourage these efforts, and American and European ministers directly intervened to pressure the king to retreat from his position.

Still unsatisfied, the Westerners launched an insurrection in January 1893. John Stevens, the U.S. minister to Hawaii, ordered U.S. Marines ashore in support of the insurrection and recognized the new provisional government, later referred to as the Republic of Hawaii, even before Queen Lili'uokalani's lines of defense had surrendered. Realizing the futility of fighting both the armed merchants and the U.S. Marines, the queen surrendered her authority.

The insurrectionists' goal had been annexation by the United States, but President Grover Cleveland denounced the role of the U.S. forces, called for the restoration of the Hawaiian monarchy, and noted that the provisional government lacked the support of the Native Hawaiian population. Attitudes changed with the next administration, however, and in 1898 President William McKinley signed a joint resolution, sometimes called the Joint Newlands Resolution, to annex the Hawaiian Islands as a territory of the United States. Under the terms of the joint resolution, the Republic of Hawaii ceded all former public, government, or crown lands to the United States. The resolution further provided that revenue from the public lands be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes.

Two years later, the Hawaiian Organic Act established the Territory of Hawaii, asserted U.S. control over the ceded lands, and stipulated that those lands were to be possessed, used, and controlled by the government of the Territory of Hawaii until otherwise provided for by Congress. Under the provisions of the act, an estimated 1.75 million acres of former crown and government lands in which Native Hawaiians claimed an interest after the *mahele* became U.S. property. The United States also inherited a trust responsibility for Native Hawaiians at the moment of annexation, just as it had after the war with Mexico and the subsequent Treaty of Guadalupe-Hidalgo for the Pueblo, Navajo, and California Indians.

Although the stated policy of Congress was to destroy tribal cohesiveness, the existence of the trust responsibility prompted congressional action when the deteriorating economic conditions of the Native Hawaiians could not be ignored. Rather than restoring the land base to a Native Hawaiian political entity, however, Congress enacted in 1921 the Hawaiian Homes Commission Act (HHCA). The act created a system somewhat similar to allotment; 200,000

acres of the land ceded to the United States at annexation were set aside for the purpose of leasing homesteads for a nominal fee to individual Native Hawaiians.

The act defined Native Hawaiians as “any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778.” The blood quantum restriction was not an attempt by Native Hawaiians to exclude others, but rather an effort by the sugar barons and ranching interests to ensure that only a limited number of Native Hawaiians could participate, thereby leaving a larger surplus of land for ranching and sugar plantations. In fact, an earlier version of the HHCA imposed only a 1/32 blood quantum requirement. Because Congress was still attempting to implement the allotment in several of American Indian lands in the United States, it is not surprising that the HHCA defined Native Hawaiians racially rather than politically. For Congress, a collective political identification would have been inconsistent with the current antitribal policies.

Unfortunately for the Native Hawaiians, the congressional focus on their plight and the subsequent passage of the HHCA predated the emergence of the 1934 Indian Reorganization Act (also called the Indian New Deal) by more than a decade. The HHCA was an allotment-era policy enacted when Congress still thought that the “civilization” of indigenous peoples called for destroying their sense of autonomy and eliminating tribal affiliations.

In 1959, as part of the Hawaiian Statehood Act, Congress delegated to the state of Hawaii the trust responsibility over Native Hawaiians. Congress ceded 1.2 million acres of land to the state for five specified purposes, including betterment of the conditions of Native Hawaiians as defined in the Hawaiian Homes Commission Act. In authorizing the grant, the act noted that these lands and the proceeds and income they generated were to be held as a public trust, and the new state of Hawaii agreed to adopt the HHCA as part of its own constitution. The act’s racial categorizations carried over because identifying Native Hawaiians as a political entity would have been inconsistent with the termination policies prevalent in the United States at that time.

The Legal Status of Native Hawaiians

Although the primary responsibility for Native Hawaiians had been delegated to the state of Hawaii, beginning in the 1970s Congress included Native Hawaiians in a number of laws for American Indians, including the National Historic Preservation Act (1966); the Native American Languages Act

(1990), which includes specific provisions for Native Hawaiian language; the Native American Graves Protection and Repatriation Act (1990), which extends protection to Native Hawaiian burial grounds; and the American Indian Religious Freedom Act (1978).

In 1993 Congress passed a joint resolution acknowledging the one hundredth anniversary of the January 17, 1893, overthrow of the Kingdom of Hawaii, with the participation of citizens and agents of the United States. Congress offered an apology to Native Hawaiians on behalf of the United States and called on the executive branch “to support reconciliation efforts between the United States and the Native Hawaiian people.”

As part of that reconciliation process, a bill was introduced by the Hawaiian congressional delegation during the 106th Congress that would have created a government-to-government relationship between Native Hawaiians and the federal government similar to the one between mainland Indian tribes and the federal government. Because the spectrum of opinion on the practical implementation of Native Hawaiian self-determination is as varied as the flora and fauna of Hawaii itself, the reaction to this bill was mixed.

Having been delegated the trust responsibility to Native Hawaiians, Hawaii also began to reexamine the situation of Native Hawaiians. In 1978 it amended its constitution to establish the Office of Hawaiian Affairs (OHA), and it designated OHA’s mission as “the betterment of conditions of native Hawaiians . . . [and] Hawaiians.” A Native Hawaiian board of trustees manages OHA, receiving and expending the portion of income from trust lands that is allocable to Native Hawaiians.

The terms *Hawaiian* and *Native Hawaiian* are defined by Hawaii Revised Statute § 10-2 (2000). *Hawaiian* is defined as “any descendant of the aboriginal peoples inhabiting the Hawaiian Islands which exercised sovereignty and subsisted in the Hawaiian Islands in 1778, and which peoples thereafter have continued to reside in Hawaii.” The statute has a more complicated definition of *Native Hawaiian*; essentially it is a Hawaiian with a blood quantum of one-half or more.

Rice v. Cayetano

Incorporation of these racially based classifications into Hawaii’s legal system would later be the linchpin in *Rice v. Cayetano* (2000), the case against the racially exclusive system of election of the OHA board of trustees.

The petitioner, Harold “Freddy” Rice, was a citizen of Hawaii and a descendant of pre-annexation residents of the

islands, but he did not meet the statutory definition of either Hawaiian or Native Hawaiian. Rice applied to vote in the election for OHA trustees in March 1996, but the state denied his application to vote. Rice then sued Hawaii's governor, Benjamin Cayetano, on the grounds that the voting restriction violated the Fifteenth Amendment of the U.S. Constitution, as well as the Fourteenth Amendment's equal protection clause.

Rice's primary argument was that the Fifteenth Amendment's command is clear and allows for no exceptions or excuses. According to the Fifteenth Amendment, "the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race." Rice contended that the state of Hawaii's "stark race-based restriction" on the right to vote in statewide elections for officials who distribute public funds violated the Fifteenth Amendment's guarantee of race-neutral voting laws. Rice further argued that nothing could salvage the OHA voting structure. Neither the special limited purpose of the elections nor the attempt to label the voting restriction as a political—as opposed to a racial—classification were sufficient to cure the alleged constitutional defect. The federal district court ruled against Rice and granted the state summary judgment, which was affirmed by the U.S. appeals court.

A core issue then became the appropriate level of Supreme Court review. In constitutional law, rational-basis review is the lowest level of scrutiny applied by courts in deciding constitutional issues through judicial review. The relevant test is whether the government action at issue is a rational means to an end that may be legitimately pursued by government. The state argued that rational-basis judicial review was proper for the Hawaiian-only voting requirement, because Native Hawaiians were just as "native" as any other Native Americans. In the state's view, because the history of interaction between Native Hawaiians and the United States was similar to the history of other Native Americans, and because Congress had repeatedly extended to Native Hawaiians the same rights and privileges accorded to American Indians and Alaska Natives, rational-basis review was justified. Citing case law governing the Pueblos in New Mexico and Alaska Natives, the state argued that Congress had historically exercised its Indian affairs power over tribes or other groups of Natives who were not federally recognized at the time. Furthermore, the state noted that the Supreme Court had upheld the use of this power.

The state's objective in arguing that Native Hawaiians should be treated legally as Indians was to convince the district court to apply the ruling in *Morton v. Mancari* (1974) and find that the OHA voting restriction worked to fulfill the unique congressional obligation to advance Indian self-governance. In *Mancari*, the Supreme Court declared that Indian status was political and not racial, thereby justifying rational-basis review.

The state pointed out the Supreme Court recognized in *Mancari* that Congress has passed innumerable laws directed at Native Americans. If these laws explicitly designed to help only Indians were deemed invidious racial discrimination, the entire body of federal Indian Law (Title 25 of the *United States Code*) would have to be discarded, which would violate the trust responsibility owed to the Indian nations.

The district court was persuaded by the state's arguments, and the U.S. Court of Appeals for the Ninth Circuit affirmed. When the case reached the Supreme Court, numerous *amicus curiae* briefs were filed on both sides. The Office of the Solicitor General, on behalf of the United States, filed one of the strongest briefs supporting the OHA race-based voting restriction. This brief advanced two points. First, Congress has a trust responsibility to Native Hawaiians precisely because it bears responsibility for the destruction of their government and their loss of sovereignty over their land. Second, the congressional extension of services to Native Hawaiians stems not from their race but from their unique status as the indigenous people of a once-sovereign nation for whom the United States has assumed a trust responsibility.

In a 7–2 ruling, the Court reversed the Ninth Circuit, holding that the OHA voting restriction violated the Fifteenth Amendment. Writing for the majority, Justice Anthony M. Kennedy opined that the state of Hawaii had created a voting restriction based on race and that it could not overcome the Fifteenth Amendment's prohibition against such a restriction. In presenting its rather formalistic analysis that led to a narrow holding on Fifteenth Amendment grounds, the majority suggested an alternative remedial infrastructure that would have avoided the constitutional defect that resulted in reversal. The majority also dismissed the two additional arguments that the restrictions were analogous to special-purpose districts and that the restrictions were intended to ensure alignment of interests between the fiduciaries and beneficiaries of the trust. In dismissing those arguments, however, the Court did not provide any further insight into what sort of structure would be acceptable.

In addressing the state's argument that *Mancari* allowed the state to treat Native Hawaiians differently, Justice Kennedy identified the defect in that argument: the state's establishment of a race-based voting scheme. The majority avoided directly deciding whether Congress had determined that Native Hawaiians could be treated like Indians from a policy standpoint, but it did not deny that Congress could make that determination. The majority stated unequivocally that *Mancari* did not allow Congress to authorize the establishment of a state voting scheme limiting the electorate for its public officials to a class of tribal Indians to the exclusion of all non-Indian citizens. But the Court's Indian law jurisprudence is equally clear under *Santa Clara Pueblo v. Martinez* (1978) that tribes have broad authority to define their membership, including establishing ancestral requirements, and thus can control who can vote in an election based on ancestry. Significantly, the majority indicated that if the entity in question, such as a Native Hawaiian polity, was "a separate quasi-sovereign," either *Mancari* or *Santa Clara*, or both, would apply. The constitutional issue would thus be eliminated, because the Fifteenth Amendment does not apply to tribal elections.

At the core of the Native Hawaiians' defeat was the fact that the remedial infrastructure crafted to benefit them was based on a notion of racial as opposed to political identity. The state did not employ the original statutory concept of "Hawaiian" based on descendancy from the aboriginal peoples who exercised sovereignty over the Hawaiian Islands in 1778. Instead, the state used a race-based definition of "Hawaiian" to restrict votes for OHA trustees. It may be permissible for a tribe to limit voting to members of a certain blood quantum, but the Court held that it is not appropriate for any state to do so.

Aftermath of Rice

Since the *Rice* decision, courts have struck down the provisions of Hawaiian state law requiring that OHA trustee candidates be of Hawaiian ancestry. Additional lawsuits have been filed challenging the constitutionality of OHA and the Hawaiian Home Lands program on the Fourteenth Amendment's equal protection grounds, which the *Rice* court left undecided. Fortunately, *Mancari* was reaffirmed in *Rice*, and thus rational-basis review remains appropriate where there can be flexibility in state policy with respect to race or ancestry.

In an attempt to give Native Hawaiians the degree of self-determination that OHA was intended to provide, Native

Hawaiian groups and representatives of OHA later met with the Hawaiian congressional delegation to develop legislation that would recognize Native Hawaiians as a political entity. With such recognition, Native Hawaiians' interaction with state or federal governments would then be on a government-to-government basis. So long as the state is not involved in the internal political matters of the Native Hawaiian entity, the Fifteenth Amendment does not restrict that entity's internal management or operations.

In 2007 Hawaiian senator Daniel Akaka introduced the Native Hawaiian Government Reorganization Act (or Akaka bill) to accomplish three primary objectives: (1) to provide a process for federal recognition of a Native Hawaiian governmental entity; (2) to establish an office within the Department of the Interior that would focus on Native Hawaiian issues, analogous to the role of the Bureau of Indian Affairs for tribes on the mainland; and (3) to create an interagency group to coordinate the activities of the various federal agencies that administer the programs and implement the policies that affect Native Hawaiians. The Akaka bill emphasized the residual sovereignty of the Native Hawaiian people rather than their racial characteristics and established procedures for creating a roll of Native Hawaiians.

Because of the wide spectrum of opinion on the practical implementation of self-determination for Native Hawaiians, the reaction to the Akaka bill was mixed. At one end of the spectrum were those Native Hawaiians who believed it was unrealistic and impractical to advocate for independence from the United States; at the other end were those who refused to acknowledge that the United States or the state of Hawaii had any authority over them. Within this continuum were groups who indicated that they would be satisfied with nothing less than a completely independent Hawaiian nation. Some sovereignty proponents contended that the islands were never legally annexed to the United States and still exist as an independent country, thereby reviving the Republic of Hawaii. Another position was that the overthrow of the monarchy was also illegal, thereby reestablishing the monarchy. Others believed that Hawaiians never voluntarily gave up their lands so that the present descendants of the Hawaiian people are, as a group, the legal sovereigns of the islands. Certain activists have even formed governments and issued laws, decrees, and constitutions.

Substantial legal scholarship suggests that Native Hawaiians retain a right of self-determination under international law that supports their organization as an indepen-

dent nation. Some sovereignty advocates recognize that, realistically, the odds of achieving independence would be quite small, and they feel that the Native Hawaiian movement is hindered by those who push for so extreme a solution instead of concentrating on more achievable goals. Nevertheless, those who advocate a more pragmatic approach are not unsympathetic to those seeking a separate, independent nation, because acknowledgment of the independence taken away is the basis for any argument for sovereignty.

Senator Akaka's legislation seemed to emanate from the position advocating the incorporation of Native Hawaiians as a political entity into the federal Indian law model. The legislation has gone through multiple iterations, each intended to make the bill more palatable to political opponents without sharply limiting the number of Hawaiians served by it. But despite the revisions, some elements of the Native Hawaiian community remain opposed. Some participants in the Native Hawaiian sovereignty debate accept that complete autonomy and independence are unlikely, but they argue that the federal Indian law model is inappropriate for Native Hawaiians, except for its concept of self-determination. Others support the development of an altogether different model along the lines of Nunavut territory, which Canada carved out of the Northwest Territories in 1999, or that of the Maori people in New Zealand who have their own territory under their own control and governance. Finally, the reconciliation discussions produced by the Apology Resolution have generated discussions about the formation of a Native Hawaiian political entity. Even this process, however, has generated some opposition from those who advocate complete independence as a separate nation.

Whether Native Hawaiians argue for the development of a new model or the application of the existing federal Indian model, the common objective remains the establishment of a Native Hawaiian political entity that can engage in government-to-government relations with the federal and state governments. Eventually, the Akaka bill or some variant of it will pass, providing for the recognition of a collective political identity of Native Hawaiians. Although they are unlikely to achieve an identity as a sovereign, independent nation on an equal footing with the United States, their organization as a single collective political entity would make way for the formal exercise of Native Hawaiian *ea* (sovereignty) over a portion of their *'aina* (land).

See also *American Indian Religious Freedom Act* (1978); *Indian Reorganization Act* (1934); Meriam Report; *Morton v. Mancari* (1974); *Native American Graves Protection and Repatriation Act* (1990); *Santa Clara Pueblo v. Martinez* (1978); *Termination and Restoration*.

Gavin Clarkson

BIBLIOGRAPHY

- Anaya, S. James. "The Native Hawaiian People and International Human Rights Law: Toward a Remedy for Past and Continuing Wrongs." *Georgia Law Review* 28 (1994): 309–364.
- Budnick, Rich. *Stolen Kingdom: An American Conspiracy*. Honolulu: Aloha Press, 1992.
- Chock, Jennifer M. L. "One Hundred Years of Illegitimacy: International Legal Analysis of the Illegal Overthrow of the Hawaiian Monarchy, Hawai'i's Annexation, and Possible Reparations." *University of Hawaii Law Review* 17 (1995): 463–512.
- Clarkson, Gavin. "Not Because They Are Brown, but Because of *Ea*: Why the Good Guys Lost in *Rice v. Cayetano*, and Why They Didn't Have to Lose." *Michigan Journal of Race and Law* 7 (2002): 317–355.
- . "Reclaiming Jurisprudential Sovereignty: A Tribal Judiciary Analysis." *University of Kansas Law Review* 50 (2002): 473–521.
- Diamond, Jared. *Guns, Germs, and Steel*. New York: Norton, 1997.
- Friedman, Lesley Karen. "Native Hawaiians, Self-Determination, and the Inadequacy of the State Land Trusts." *Hawaii Law Review* 14 (1992): 519–580.
- Harvard Project on American Indian Economic Development. *The State of the Native Nations: Conditions under U.S. Policies of Self-Determination*. New York: Oxford University Press, 2007.
- Kame'eleihiwa, Lilikala. *Native Land and Foreign Desires: Pehea La E Pono Ai? How Shall We Live in Harmony?* Honolulu: Bishop Museum Press, 1992.
- Kuykendall, Ralph S. *A History of Hawaii*. New York: Macmillan, 1926.
- MacKenzie, Melody Kapilialoha. *Native Hawaiian Rights Handbook*. Honolulu: University of Hawaii, 1991.
- Morton v. Mancari* 417 U.S. 535 (1974).
- Rice v. Cayetano*, 528 U.S. 495 (2000).
- Tomasa, Taryn Ranae. "Ho'Olahui: The Rebirth of a Nation." *Asian Law Journal* 5 (1998): 247–287.
- Tyler, Alice Felt. *The Foreign Policy of James G. Blaine*. Minneapolis: University of Minnesota Press, 1927.
- Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978).
- Van Dyke, John. "The Political Status of the Hawaiian People." *Yale Law and Policy Review* 17 (1998): 95–146.

Navajo War (1849–1868)

The wars between the Navajo Nation (Diné) and the United States in New Mexico and Arizona between 1849 and 1868 were the last of many conflicts involving the Navajos, who also battled other Native American groups and Mexicans before and after the coming of the Americans. Ironically, from the American perspective, the Navajos were, to some extent, living the life that the U.S. government wanted other Indians to adopt. They farmed and herded in

ways rather like those of American and Mexican settlers. However, the Navajos resisted the movement of settlers into their country, and raids by Navajos on American settlements provoked retaliatory strikes by the U.S. military.

The two parties often tried to alleviate the violence. Treaties, such as those signed in 1849 and 1855, were made between them, but the agreements reflected American misunderstanding of Navajo tribal governance. Chiefs and tribal structures were thought to exert more control than was the case. Consequently, the United States viewed the involvement of individual tribesmen or small groups in skirmishes and raids on American settlements as evidence of bad faith by the entire tribe. Significant disagreements between U.S. civilian and military authorities also hampered the development of policies toward the Navajos that would have secured the peace.

In 1851 the construction of Fort Defiance antagonized the Navajos even further, and in 1858 the existence of the post provoked another conflict, in this case over the right to pasture lands near the fort. U.S. Army major Thomas H. Brooks and Navajo leader Manuelito both claimed the right to graze their livestock in the pasture. When hostilities escalated, Brooks declared war on the Navajos. In 1860 a large Navajo force led by Manuelito and Barboncito, among others, attacked Fort Defiance. The Americans repelled the attack and chased many of the Navajos into the mountains.

The years of the American Civil War (1861–1865) brought renewed combat. Reports of gold and silver in Navajo territory brought more settlers into the area. Navajo raids on American settlements prompted the United States to attack in 1863. U.S. Army commander James H. Carlton decided to subjugate the Mescalero Apaches and the Navajos and force them to a reservation, where, he theorized, they could receive instruction in Christianity and private property ownership and turn the new home into an irrigated, agricultural settlement. When the Indians refused to relocate, Carlton ordered Colonel Christopher “Kit” Carson to force them to leave. Carson undertook a ruthless and ultimately devastating series of attacks on the Navajos and Apaches, burning their crops and killing their animals. By March 1863 most of the Mescalero Apaches, a group of about four hundred, had been defeated and marched to what could best be called an internment camp at a spot known as the Bosque Redondo, near Fort Sumner in what is present-day eastern New Mexico.

Carleton then turned his army on the Navajos. In June he ordered Carson to force them to the Bosque Redondo,

where the Apaches had been put to work building irrigation ditches and preparing fields for planting. Carson attacked and laid siege to the Navajos at the Canyon de Chelly over the winter of 1863–1864. By March about six thousand starving and demoralized Navajos had surrendered. Carson forced them to relocate over 375 miles to the Bosque Redondo. The removals became known collectively as the “The Long Walk,” but the name hardly hints at the suffering the Navajos endured. Over two hundred Navajos died on the journey, and an estimated two thousand died at Bosque Redondo.

Some Navajos refused to surrender and move to the Bosque Redondo or attempted to escape from the camp. Barboncito, for example, led some Navajos away from the Bosque Redondo in 1865, only to be recaptured the following year. Manuelito and his band did not surrender until late 1866.

At the Bosque Redondo, the Navajos labored diligently to support themselves, but insect attacks on crops and a lack of water, despite the irrigation projects undertaken, defeated these efforts. The failure of the reservation became evident even to the most unsympathetic policy makers. In 1868 the United States set aside a reservation for the Navajos within their homelands. Despite Navajo success in maintaining their identity, the Bosque Redondo confinement left a permanent mark on the tribe.

See also *Bosque Redondo*; *Carleton, James Henry*; *Carson, Christopher “Kit”*; *Manuelito*; *United States–Indian Wars (1848–1891)*.

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BIBLIOGRAPHY

- Bailey, L. R. *The Long Walk: A History of the Navajo Wars, 1846–1868*. Los Angeles, Calif.: Westernlore Press, 1964.
- Kelly, Lawrence C. *Navajo Roundup: Selected Correspondence of Kit Carson’s Expedition against the Navajo, 1863–1865*. Boulder, Colo.: Pruett Publishing Company, 1970.
- McNitt, Frank. *Navajo Wars: Military Campaigns, Slave Raids, and Reprisals*. Albuquerque: University of New Mexico Press, 1972.
- Keleher, William A. *Turmoil in New Mexico, 1846–1868*. Santa Fe, N.Mex.: Rydal Press, 1952.
- Thompson, Gerald. *The Army and the Navajo: The Bosque Redondo Reservation Experiment, 1863–1868*. Tucson: University of Arizona Press, 1976.
- Trafzer, Clifford E. *The Kit Carson Campaign: The Last Great Navajo War*. Norman: University of Oklahoma Press, 1990.

Navajo-Hopi Relations

See *Hopi-Navajo Relations*.

Neighbors, Robert S.

Robert Simpson Neighbors (1815–1859) was a Texas Indian agent and humanitarian. A native of Virginia, he immigrated to Texas in early 1836, shortly before it became independent from Mexico. Following independence, he served in the Quartermaster Department of the Texas Army, attaining the rank of major. In 1845 he was appointed agent for the Lipan Apache, Tonkawa, and Penateka Comanche Indians. He lived with them on the Plains and gained such influence among them that he was able to restrain Comanche bands from extensive raiding. He also negotiated an agreement with the Penateka Comanches that allowed German immigrants to settle in part of their territory northwest of San Antonio.

Neighbors remained in the Indian service after Texas was annexed to the United States. In 1849, however, in an act of political patronage, he was replaced as Texas agent by John H. Rollins of Mississippi. Because his years among the Indians had given him firsthand knowledge of the upper Rio Grande region, Neighbors was appointed to a commission that organized the westernmost part of the state and established Texas's jurisdiction there. He then served as a member of the Fourth Texas Legislature, during which time he was instrumental in passing a bill to establish reservations on the Brazos River.

After he supported the successful presidential campaign of Franklin Pierce, Neighbors was reappointed Indian agent, and later superintendent of Indian affairs for Texas. Together with Captain Randolph B. Marcy of the U.S. Army, he surveyed the Brazos area and established two reservations, one for Anadarkos, Wacos, and affiliated tribes, and the other for the Penatekas.

Despite Neighbors's efforts to maintain peace, rapid development and settlement of the upper Brazos Valley produced conflict between settlers and Indians. The problems were made worse by local military commanders, who were quick to side with settlers in disputes with Indians. Ultimately, Neighbors determined the Indians would have to be removed for their own safety. In August 1859 he closed the Brazos reservations and settled the Caddos and Penatekas in the Indian Territory (present-day Oklahoma). A month later, after he returned to Fort Belknap in Texas, he was murdered by Edward Cornett, a complete stranger who resented Neighbors's support for the Indians. Neighbors was buried at the civilian cemetery across from the military post.

See also *Reservations; Texas.*

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BIBLIOGRAPHY

Neighbours, Kenneth Franklin. *Robert Simpson Neighbors and the Texas Frontier, 1836–1859*. Waco: Texian Press, 1975.

Richardson, Rupert Norval. *The Comanche Barrier to South Plains Settlement*. Austin, Tex.: Eakin Press, 1996.

Netherlands, Indian Policy of

In 1609 Henry Hudson explored part of the American coast on a Dutch-sponsored voyage. In the following decade, ships from the Netherlands returned to those shores to trade with Indians, and Amsterdam merchants made plans for a colony. The Dutch West India Company intended New Netherland to be a fur-trading venture and a port of convenience for ships returning from their tropical plantations. On their maps, the Company claimed all the land between New England and the Chesapeake Bay. In reality, New Netherland was only a string of settlements along the Hudson River and a few posts on the Delaware River when the English conquered it in 1664.

Dutch traders dealt with two major groupings of Indians: the coastal Algonquian-speaking people and the Iroquoian-speakers from the interior. Indians prized the Europeans' tools, cloth, and guns and began to hunt for animal pelts to trade for Dutch wares. Competition in the fur market led to conflicts, such as the 1624–1628 Mohawk–Mahican War. Algonquians found another way to enter this trade when the Dutch began to treat their ceremonial shell beads (known as *wampum* or *zeewan*) as a kind of "Indian money." The Dutch traded for wampum along the coast, and then headed inland, where Iroquoians were eager to barter for both the sacred beads and manufactured goods. Traders then ferried the furs back to Europe, where they were in high demand as material for hats.

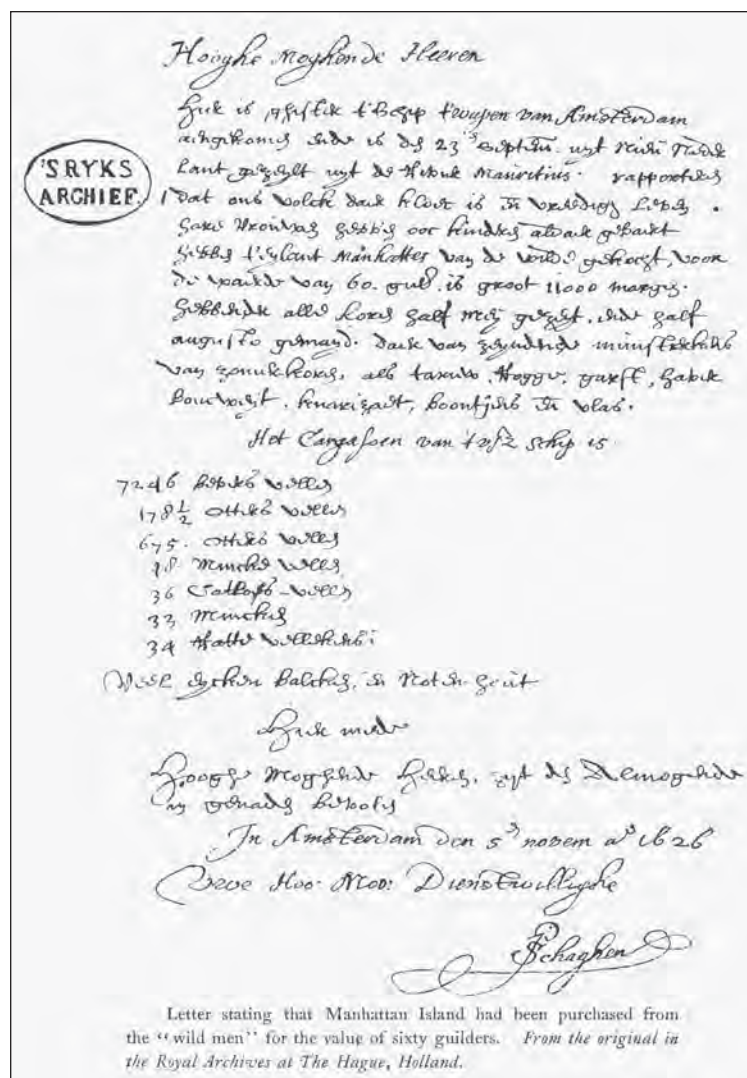
While this commerce was the chief business of New Netherland, by 1624 the Company looked to establish a permanent settlement to provision and defend the main trading post at Fort Orange (present-day Albany, New York). The popular legend that Pieter Minuit (governor, 1626–1632) bought the island of Manhattan for twenty-four dollars is misleading. While the Manhattans did accept sixty guilders' worth of goods to allow the Dutch to settle the island and build a fort on it, Algonquian notions of property were different from European notions, and it is unclear if they saw the exchange as permanent. The incident is more noteworthy as an early instance of the Dutch buying (rather than seizing) land, a practice they would continue in the years to follow.

The Company's Indian policies were designed to minimize conflicts and maximize profits. Only the Company could purchase land from Indians, and they forbade ordinary settlers from trading, although this law soon proved impossible to enforce. The Company had little interest in converting Natives to Christianity. They focused their attention on trade rather than forming a long-term plan to conquer the landscape.

While the Dutch hoped to maintain peace, their policy had the opposite effect. Colonial governors remained dangerously ignorant of Indian culture and politics. Their indifference toward territorial expansion meant that when more colonists did arrive, the Company was ill-prepared to manage both trade and settlement at the same time.

After years of slow growth, more colonists migrated to New Netherland from the 1640s to the 1660s, lured by the promise of cheap land and a newly deregulated fur trade. Many of the newcomers were not Dutch at all, but English, German, French, and Scandinavian. They soon began to settle closer to the Algonquians, which increased the number of minor disputes. In 1642 a full-blown war broke out between New Netherland and its Native neighbors, known as Kieft's War after Willem Kieft (governor, 1638–1647). When Kieft ordered massacres of the Raritans and Wiechquaeskecks in an attempt to intimidate all Algonquians, an alliance of Indians from all around Manhattan banded together and attacked the colony. This grueling war lasted until 1645, and colonists faulted Kieft for starting it. Under Pieter Stuyvesant (governor, 1647–1664), there were several smaller conflicts: the 1655–1656 "Peach War" (a conflict sparked by an Indian woman's theft of a peach) and the 1662–1664 wars between the Dutch and the Esopus people. While Stuyvesant was a better administrator than Kieft, his government bears some responsibility for inflaming and prolonging these wars.

For inland Natives, relations with New Netherland were comparatively much better. The Iroquois Five Nations generally had peaceful dealings with the traders at Fort Orange, due in no small part to Arent Van Curler, the dominant figure in Iroquoian-Dutch relations from 1640 to 1667. For the next century, Five Nations ambassadors continued to refer to New York by the ceremonial name of "Corlaer" as a tribute. The overall legacy of New Netherland's Indian relations was



In this 1626 letter, a Dutch West India Company representative announces what Europeans considered to be the "purchase" of land from the Manhattan Indians. For sixty guilders worth of items, the Dutch were able to establish a fort to protect their trade in present-day New York.

more mixed, as the talented negotiator Van Curler was the exception rather than the rule.

The Dutch handed their colony over to the English in 1664 during a larger trade war between the two nations. The area where the Dutch had settled became the colonies of New York and New Jersey.

See also *Fur Trade*; *Great Britain, Indian Policy of*; *New York, Indian Policy of*; *Sweden, Indian Policy of*.

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BIBLIOGRAPHY

Burrows, Edwin G., and Mike Wallace. *Gotham: A History of New York City to 1898*. New York: Oxford University Press, 1999.

Haefeli, Evan. "Kieft's War and the Cultures of Violence in Colonial America." In *Lethal Imagination: Violence and Brutality in American History*, edited by Michael A. Bellesiles, 17–40. New York: New York University Press, 1999.

Jacobs, Jaap. *New Netherland: A Dutch Colony in Seventeenth-Century America*. Leiden, Netherlands: Brill, 2005.

Merwick, Donna. *The Shame and the Sorrow: Dutch-Amerindian Relations in New Netherland*. Philadelphia: University of Pennsylvania Press, 2006.

Richter, Daniel K. *The Ordeal of the Longhouse: The Peoples of the Iroquois League in the Era of European Colonization*. Chapel Hill: University of North Carolina Press, 1992.

Trelease, Allen W. *Indian Affairs in Colonial New York: The Seventeenth Century*. Ithaca, N.Y.: Cornell University Press, 1960.

New Deal, Indian

See *Indian New Deal*.

New Echota (1835), Treaty of

During the 1820s politicians in Georgia conducted a relentless campaign to remove the Cherokee Indians from the state. After the passage of the 1830 Indian Removal Act, President Andrew Jackson's administration accelerated the pressure on the Cherokees to abandon their homeland and relocate to the Indian Territory (in what is present-day Oklahoma). The Cherokee government conducted a clever and determined resistance movement: they adopted a republican constitution, extensively lobbied federal officials, and initiated litigation designed to protect their territory and autonomy. In 1832 the U.S. Supreme Court ruled in *Worcester v. Georgia* that the Cherokee people comprised a sovereign nation and that trespasses on that nation's rights by the state of Georgia were unconstitutional. This initially appeared to reverse the momentum toward removal. However, Cherokee hopes to remain in their ancestral domain were dashed when Jackson chose not to enforce the decision.

At that point, a small group of Cherokee dissidents attempted to persuade the Cherokee government and John Ross, the Cherokee principal chief, to negotiate the best terms they could for a removal treaty. When Ross and the council refused, the pro-removal faction, led by the families of Cherokee leaders Major Ridge and Buck Watie, signed the Treaty of New Echota with U.S. treaty commissioner John Schermerhorn. The dissidents, who became known as the Treaty Party, not only negotiated and signed the agreement without the approval of the Cherokee government, they also violated a law passed by that government in 1829 that made the selling of national land a crime punishable by

death. Though not approved by the Cherokee National Council, the Treaty of New Echota was ratified by the U.S. Senate and proclaimed lawful by Jackson on May 23, 1836.

In the treaty the Cherokees surrendered all of their land in the Southeast for new lands in the northeastern portion of the Indian Territory. The U.S. government agreed to pay for the value of Cherokee improvements to their ceded land, the costs of removal, and one year of provisions to provide them with time to acclimate to their new conditions in the territory.

The Cherokee government refused to ratify the treaty. Approximately sixteen thousand Cherokees, perhaps 75 percent of the nation, signed a petition protesting the agreement. However, their protests failed to persuade the U.S. government to abandon the treaty, and in the summer of 1838 President Martin Van Buren ordered the U.S. Army to round up the Cherokees, place them in stockades, and relocate them to the Indian Territory. In the winter of 1838–1839, the people of the Cherokee Nation migrated west on what became known as the Trail of Tears. Perhaps one-fourth of their population died as a consequence of their removal.

After settling in the Indian Territory, the Cherokees suffered through years of internal warfare between those who supported and those who opposed removal. In 1839 a group of Cherokees loyal to John Ross killed the leaders of the Treaty Party: Major Ridge, his son John, and his nephew Elias Boudinot (Buck Watie). Widespread unrest ended in 1846, when Chief John Ross and the Cherokee National Council reluctantly acknowledged the treaty's terms and accepted the monies promised in the agreement by the United States.

See also *Boudinot, Elias*; Cherokee Nation v. Georgia (1831); *Indian Removal Act (1830)*; *Jackson, Andrew*; *Removal*; *Ridge Family*; *Ross, John*; *Trail of Tears*; *Worcester v. Georgia* (1832).

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BIBLIOGRAPHY

Banner, Stuart. *How the Indians Lost Their Land: Law and Power on the Frontier*. Cambridge, Mass., and London: Belknap Press of Harvard University Press, 2005.

Garrison, Tim Alan. *The Legal Ideology of Removal: The Southern Judiciary and the Sovereignty of Native American Nations*. Athens: University of Georgia Press, 2002.

Perdue, Theda, and Michael D. Green. *The Cherokee Nation and the Trail of Tears*. New York: Viking Adult, 2007.

Wilkins, Thurman. *Cherokee Tragedy: The Story of the Ridge Family and of the Decimation of a People*. New York: Macmillan Company, 1970.

New Mexico, Indian Policy of

Scholars maintain that New Mexico Native American groups began developing approximately twelve to thirty thousand years ago. During this period, prehistoric Indians journeyed throughout the Southwest. Some of these nomads developed farming skills and began growing crops. Members of as many as twenty-two distinct pueblos and tribes are descendants of these early Natives. Each tribe maintains separate, sovereign governments and seeks to preserve its traditions and languages.

Most scholars maintain that the Hopi and Rio Grande Pueblo people descended from the ancestral Pueblo (Anasazi) culture that constructed the impressive stone buildings at Chaco Canyon; the cliffside caves at Bandelier; and sites in southern Colorado, eastern Arizona, and northern Mexico. An elaborate road system connected these settlements to facilitate trade. The Apaches and Navajos migrated into New Mexico in the mid-sixteenth century. The Pueblos taught farming to the Navajos, who also learned sheepherding and ranching from Hispanic colonizers. By the mid-eighteenth century, Comanche pressure from the north forced the Faraon Apaches into eastern New Mexico and the Lipian Apaches into the southern areas of the territory.

Spanish Conquest of New Mexico

Don Juan de Oñate initiated Hispanic contact with indigenous New Mexico peoples in 1598. After traveling northward from Mexico along the Rio Grande, Oñate and Franciscan missionaries established a colony across the river from a community that later became known as San Juan Pueblo. On July 7, 1598, the first recorded assembly of thirty-eight Pueblo leaders granted Oñate permission to settle in the area and swore allegiance to the king of Spain. However, the Pueblos also resisted the Spanish encroachment because they feared labor exploitation, punishment, and the curbing of their religious traditions. In 1610 Oñate moved the provincial capital to Santa Fe and initiated a determined effort to Christianize the Pueblos. He also dealt brutally with Native villages that resisted conversion, burning the structures, amputating the feet of each surviving male, and forcing some Natives into twenty years of personal service to Spaniards. As was the case during the Spanish invasion of Mexico, Oñate rewarded conquistadors with grants of indigenous labor known as *encomiendas*.

Afterwards, Franciscan missions anchored New Mexico. Missionary workshops taught the Pueblos weaving, leather-

work, blacksmithing, and a variety of other tasks. But the continuation of indigenous spiritual rituals that the missionaries considered idolatrous offended the Franciscans, who whipped Native American priests for these practices and executed repeat offenders. In response to this, the Pueblos initiated a broad revolt intended to kill all the friars and colonists on August 10, 1680. Santa Fe soon became besieged and the beleaguered colonists retreated until Don Diego de Vargas led a reoccupation of New Mexico in 1693.

During his terms as governor, de Vargas brought the Pueblos into a partnership with the colonists against nomadic rivals. The Pueblos received food, weapons, and tools in return for their alliance and readily adopted farming and the raising of livestock. Franciscans and civil authorities moderated their treatment of the Pueblos so that more humane policies were utilized. Meanwhile, the Pueblos readily adopted the sheep, cattle, horses, and various plants which the Hispanics introduced. Spaniards also protected Native American legal rights by establishing the position of *protector de indios*, an individual appointed to act on behalf of the Pueblos. Therefore, the communal outlook of Native American culture continued despite settler encroachments upon indigenous lands.

The Spaniards slowly pacified much of New Mexico during the eighteenth century, and voluntary conversions of Hopis and Navajos greatly increased from the 1730s to the 1770s. The Spaniards built twenty-five missions in the region. Inter-marriage with various indigenous peoples swelled the population of the New Mexico colony to about eight thousand. The Pueblo territory had been brought under Spanish authority, but controlling other tribes was more difficult. To preserve order, the Spanish recognized Navajo land rights around Cebolleta Mountain and attempted no major efforts to place the tribe directly under Spanish rule. However, conducting raids had become a mainstay of the Navajos, and they were a formidable military force. These raids served to seize enemy possessions and hostages and dominate hunting grounds. Despite this fierce reputation, the seizure of their livestock by Apaches and increasing Ute and Comanche pressure motivated the Navajos to conclude peace with Spain in 1706. In 1786 the Spanish established a system of reservations called *establecimientos de paz*, which later became a model for U.S. reservations.

The Mexican Era

In 1821 New Mexico became part of the new nation of Mexico after it secured its independence from Spain.

Mexico had difficulty in maintaining peace treaties with Native Americans in the newly acquired region. The major problem was that the *nuevomexicanos* continued to capture Indians and enslave them. As financial and political turbulence weakened Mexico, many of the formidable Hispanic institutions crumbled. The independence movement disrupted completely the Spanish *establecimientos*. Mexico still recognized land grants conceded to Pueblos by the Spanish crown, but the new republic enacted legislation less stringent in terms of protecting Native American land and water rights. Rations to pacify the Comanches and Apaches did not materialize. The use of rifles obtained from unscrupulous traders encouraged Indians to kill far too many buffalo, reducing herds below the levels needed for survival. As a result, raiding sharply increased. Mexican hopes of peace with the Natives and an alliance against U.S. expansion soon faded. Restless young men would not honor treaties and began attacking ranches, villages, and farms. The Navajos and Utes became particularly active in the spring of 1843, killing settlers, abducting women and children and forcing them into slavery, and stealing livestock.

American New Mexico

After the United States declared war on Mexico in 1846, its troops advanced into New Mexico with ambitious settlers following the soldiers. As Colonel Stephen Watts Kearny entered New Mexico, the U.S. government also claimed large tracts of Native American land. A large number of Pueblos favored an accommodation with the United States. Many *nuevomexicanos* supported U.S. annexation as well, believing that the U.S. Army would control indigenous groups throughout New Mexico. To the Hispanic/Mexican population, the Navajos constituted the primary threat to peace. Navajo resistance and their refusal to stop conducting raids inevitably forced Kearny to conclude that the tribe had also become an impediment to U.S. authority in New Mexico. U.S. forces under Alexander Doniphan finally concluded a peace treaty with the Navajos on November 22, 1846, near present-day Gallup, New Mexico.

As with virtually all treaties between U.S. representatives and Native Americans, the provisions of the Navajo treaty strongly favored the United States. The United States claimed New Mexico and its Navajo lands, and the Navajos were obligated to maintain peaceful relations in the region. This was the first U.S. treaty concluded with Indians in the Southwest, and as such was a crucial step in determining future U.S. policy and treatment toward Natives. Other

tribes soon began to seek accommodation with the United States. The Pueblos remained unopposed to U.S. occupation, and the Utes agreed to peace terms. The Apaches—although they continued to threaten U.S. troop movements—proposed a treaty to battle the Mexicans.

The Navajo peace treaty proved unsuccessful as the Navajos soon resumed raiding. In 1847 Indians killed an estimated forty-seven whites, destroyed 330 wagons, and butchered or dispersed about 6,500 head of livestock. The U.S. insistence that the Navajos cease raiding was unrealistic because Mexican and Ute forces never stopped attacking Navajo lands in search of livestock and slaves. Subjected to this violence, the Navajos struck back. Raids also sought to discourage Anglos from slaughtering the buffalo, which hide hunters later all but exterminated. A cycle of war and peace prevailed among the Navajos for the next twenty years. The United States signed three additional Navajo treaties from 1848 to 1851, but all of them also failed.

The cyclic pattern of war and peace and the continued demands of settlers for protection induced the Office of Indian Affairs to devise a new reservation system for containing Native Americans. A desire for fixed boundaries between Native American communities and the rest of the residents of the territory became widespread throughout white and Mexican areas, as well as among federal officials. In 1853 Governor David Meriwether requested that the Indian commissioner allow him to offer treaties to tribes that would terminate indigenous titles to land closest to whites and remove the tribes as far away as possible. In return for such one-sided concessions, Indians would be offered annuities for land which they surrendered. In April 1855 the U.S. Congress appropriated \$25,000 for Meriwether to negotiate treaties with Indians that included the setting of boundaries and, for the first time, the concept of reservations. On July 18, 1855, Meriwether persuaded Navajo leaders to accept removal to a reservation of seven thousand square miles between the Rio Colorado, the Rio Grande, and the Zuni River. In agreeing to accept payments of up to \$102,000 by 1876, the Navajos gave up about two-thirds of their former lands and could not plant crops or graze livestock east of the reservation boundary.

The United States continued to expand the reservation system across the West. In 1855 the Utes agreed to a treaty in which they ceded all their land to the United States except for a reservation area in which they promised to remain for a year. Meriwether negotiated four additional treaties with other Utes and Apaches. An 1868 treaty marked

the beginning of a new era of relations between the nation and the Navajos, setting aside for the Indians' exclusive use a reservation of almost four million acres that straddled northwestern New Mexico and northeastern Arizona.

In other regions, the reservation policy was motivated largely by the desires to free more land for white settlement, to provide areas where indigenous peoples could better be prepared for assimilation into the mainstream American society, and to protect Natives from white encroachment and newly introduced vices. When the United States defeated Mexico in 1848 and acquired New Mexico in the Treaty of Guadalupe Hidalgo, the federal government quickly moved to weaken tribal unity in the region. Partially for that reason, the Utes were removed from New Mexico to a reservation in Colorado. U.S. officials learned from observing the previous Indian policies of Spain and Mexico. The United States consolidated its annexation of New Mexico by adopting, although on a much more modest level, the missionary efforts of the Spanish. Waves of Protestant missionaries soon arrived and offered medical, educational, and religious benefits that eventually won over sizeable portions of New Mexico's Native American nations.

By the 1860s the federal government had abandoned its previous policy of treating much of the Southwest as a vast indigenous reserve and had introduced a system of smaller, separate tribal reservations where the Indians were to be concentrated, by force if necessary, and where they were expected to exchange nomadic traditions for agricultural life. Some Native Americans, like the Pueblos, peacefully accepted their fate. However, during and after the Civil War (1861–1865), groups of Apaches in southwestern New Mexico, led by Cochise, Mangas Coloradas, Victorio, and Geronimo, continued to resist the U.S. government. Geronimo and his Chiricahua warriors refused to reside in reservations and fought off U.S. and Mexican armies for several years. Geronimo inevitably tired of being on the run and assumed that surrendering would provide stability for his people. In 1886 he turned himself in and became a prisoner. His followers were interned for several years before being placed on a reservation.

The attempts of John Collier (1884–1968) to reform Native American society helped combat attempts to diminish the culture of indigenous peoples in New Mexico. Fascinated by the depth and richness of Native American culture, Collier found wealthy sympathizers to finance his efforts to fight the unfair treatment of Indians by the federal government. He gained widespread attention for his

opposition to the Bursum Bill, which New Mexico senator Holm Olaf Bursum introduced on July 20, 1922, at the behest of Albert Fall, the secretary of the interior. The bill would have endangered Indian claims over oil, minerals, and water throughout New Mexico. The bill also would have confirmed all non-Indian land title claims held for more than ten years prior to 1912. (Previously, courts had ruled that Native Americans could sell or lease their land, but later reversed themselves.) Opponents of the bill claimed that it was unfair to the Indians, asserting that they would lose thousands of acres of land.

Collier attended a meeting of the All Pueblo Council on November 5, 1922, to discuss the Bursum Bill. The 121 delegates concluded that the Bursum proposal would destroy their communal traditions and rob them of their land, and they decided to call for donations so that their representatives could travel to Washington, D.C., to protest. Fall's attempts to defend the bill failed, and the Teapot Dome scandal, which broke out in the spring of 1922 and involved Fall directly, ended his career. Meanwhile, Collier and his Indian allies continued to draw attention to the poor conditions of the reservations and the indifference of the Office of Indian Affairs. In 1924 Congress passed the Pueblo Lands Act, which established a process to determine title to Pueblo lands and included provisions to protect Indian claimants.

Collier was a supporter of Franklin Roosevelt, who was elected president in 1932. Roosevelt's secretary of the interior, Harold Ickes, was also deeply interested in helping Native Americans, and he appointed Collier as commissioner of the Office of Indian Affairs. Collier carried out a number of reforms. He immediately appropriated \$30 million for the conservation of Indian communities. He used the funds to put eighty-five thousand residents to work on building roads and dams and to train others to operate mechanical equipment and manage land. In 1934 Congress passed the Indian Reorganization Act, which ended the allotment of tribal lands and allowed tribes to expand reservation holdings and restore them to communal ownership. The act also provided Natives the opportunity to adopt tribal constitutions and establish quasi-municipal corporations. Collier, however, angered the Navajos with his stock reduction plan, which was designed to reduce overgrazing and soil erosion, and they rejected the IRA.

Wartime military service did much to improve the political status of Native Americans in New Mexico. Although Indians were exempt from the draft prior to World War I (1914–1918), thousands enlisted to fight in France. During

World War II (1939–1945), the U.S. military used Navajo soldiers to transmit combat messages in their language during several key battles. Despite this, and even though all Indians had been made U.S. citizens in 1924, it was not until 1948 that Native Americans were allowed to vote in New Mexico elections.

Since that time, the Native peoples in what was greater New Mexico have fought to preserve and expand their sovereign powers; build educational, political, and social-welfare institutions; revitalize their culture; and invigorate their economies. The pueblos and tribes of the American Southwest have been remarkably resilient in light of the attacks on their people and culture over the last four hundred years.

See also *All Indian Pueblo Council; Apache Wars (1860–1886); Buffalo; Bursum Bill (1922); Cochise; Collier, John; Fall, Albert B.; Geronimo; Ickes, Harold L.; Indian Reorganization Act (1934); Mangas Coloradas; Mexico, Indian Policy of; Missions and Missionaries; Navajo War; Oil and Gas; Pueblo Lands Act (1924); Pueblos; Ranching; Reservations; Spain, Indian policy of; Treaties: Historical Overview; U.S.-Mexican War (1846–1848); Victorio; Voting Rights; World War II (1939–1945), American Indians and.*

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BIBLIOGRAPHY

- Brooks, James F. *Captives and Cousins: Slavery, Kinship, and Community in the Southwest Borderlands*. Chapel Hill: University of North Carolina Press, 2002.
- Clarke, Dwight L. *Stephen Watts Kearny: Soldier of the West*. Norman: University of Oklahoma Press, 1961.
- Cutter, Charles R. *The Protector de Indios in Colonial New Mexico, 1659–1821*. Albuquerque: University of New Mexico Press, 1986.
- Dawson, Joseph G. *Doniphan's Epic March: The 1st Missouri Volunteers in the Mexican War*. Lawrence: University Press of Kansas, 1999.
- Deutsch, Sarah. *No Separate Refuge: Culture, Class, and Gender on an Anglo-Hispanic Frontier in the American Southwest, 1880–1940*. New York: Oxford University Press, 1987.
- Jones, Oakah L., Jr. *Pueblo Warriors and Spanish Conquest*. Norman: University of Oklahoma Press, 1966.
- Knaut, Andrew L. *The Pueblo Revolt of 1680: Conquest and Resistance in Seventeenth Century New Mexico*. Norman: University of Oklahoma Press, 1995.
- McNitt, Frank. *Navajo Wars: Military Campaigns, Slave Raids, and Reprisals*. Albuquerque: University of New Mexico Press, 1972.
- Philp, Kenneth R. *John Collier's Crusade for Indian Reform, 1920–1954*. Tucson: University of Arizona Press, 1977.
- Prucha, Francis Paul. *American Indian Treaties: A History of Political Anomaly*. Berkeley: University of California Press, 1994.
- Richmond, Douglas W. *The Mexican Nation: Historical Continuity and Modern Change*. Upper Saddle River, N.J.: Prentice Hall, 2001.
- Simmons, Marc. *Spanish Government in New Mexico*. 2nd ed. Albuquerque: University of New Mexico Press, 1990.

Trennert, Robert A. *Alternative to Extinction: Federal Indian Policy and the Beginnings of the Reservation System, 1846–1851*. Philadelphia, Pa.: Temple University Press, 1975.

Utey, Robert M. *The Indian Frontier of the American West, 1846–1890*. Albuquerque: University of New Mexico Press, 1984.

New York, Indian Policy of

The Dutch colony of New Netherland was the precursor to the English colony of New York. The Dutch arrival in the area in the early seventeenth century resulted in the decimation and retreat of the Algonquin population. When the English seized control of New Netherland in 1664 and renamed it New York, they had to deal with the most powerful Indians remaining in their colony, the Iroquois Confederation. Composed of first five (the Mohawk, Cayuga, Onondaga, Oneida, and Seneca) and eventually six Indian tribes (the Tuscarora joined in the eighteenth century), the confederation was a constant source of concern for the New York colony.

Although the English governor was in charge overall, the magistrates of Albany, much closer to Iroquois territory, handled most dealings with the Natives. During the 1690s, the leaders in Albany were formally dubbed commissioners for Indian affairs. Meetings were held in Albany, the location of the council fire, a ceremonial term for the site of diplomatic talks.

Anglo-French Rivalry in New York

As New York claimed all land south of the St. Lawrence River and west to the Great Lakes, it was essential for the English to keep the Iroquois within their sphere of influence. The French in Canada also wanted to extend their control over the Confederation and use it as an ally against the English. New York's insistence that the Iroquois were under the English flag started under the colony's first governor, Richard Nicolls, and became even stronger under successors such as Edmund Andros and Thomas Dongan. Andros managed to convince the Iroquois to stay out of King Philip's War (1675–1676) in neighboring New England. Andros also broke precedent by meeting the Iroquois in their own towns, not just in Albany. The Iroquois responded by calling him Corlaer (derived from the name of an early Dutch settler), which became their term for all governors of New York.

Along with imperial concerns, New York sought to capture the profitable beaver fur trade by providing English goods that were both cheaper and better than the French

could supply. Albany, granted a monopoly over the fur trade by the colonial government that lasted until the 1720s, profited from the lucrative trade. Having Albany as the sole fur market pleased the Iroquois, who thought traders in other locales overcharged them.

The French did not sit idly by. French Jesuits converted some of the Iroquois to Catholicism and secured their political allegiance. Eventually the Catholic Iroquois severed their links with the Confederation and left for Canada.

Despite such inroads, the colony of New York kept the allegiance of most Iroquois, who were very active during King William's War (1689–1697). Iroquois raiders attacked French settlements, and the French responded in kind. Despite New York's failure to avenge the Iroquois' losses at the hands of the French, Governor Benjamin Fletcher managed to thwart a strong peace faction among the Iroquois, with the help of expensive presents to notables among them.

After the return of peace, an illegal trade developed among the French, the Iroquois, and English and Dutch fur traders in Albany. The French had their Catholic Iroquois bring furs to Albany, receiving in turn English trade goods. Then the French, after greatly increasing the price of these English goods, bartered them for furs held by Indians in the more distant West, thus bringing them into the French political orbit. Although all benefited from the trade, New York's Iroquois strongly opposed the smuggling as it led to the emigration of more of their people, who were searching for lucrative profits from the illegal trade, to Canada.

When England tried to blunt the imperial goals of French king Louis XIV, Queen Anne's War (1702–1713) began in Europe. With the renewal of war, New York governor Robert Hunter tried and failed to stop the illegal fur trade. His successor, William Burnet, aided by the surveyor-general of New York, Cadwallader Colden, secured passage of a law in 1720 banning the sale of English trade goods to the French or their agents. When merchants protested to the British government, it praised Burnet's motives but voided the restrictions. However, the French, themselves concerned by the trade and the success of the new trading post in Oswego, cracked down on the illegal trade, which declined over time.

By 1740 the Iroquois had lost faith in the Albany Indian commissioners. Angered by several fraudulent attempts to acquire their land, they no longer trusted the colonial officials. Meanwhile, an Irish trader on the Mohawk River, William Johnson, had gained the trust of the Iroquois and practically all the Indian business that formerly went to

Albany. Though Johnson was bound to the colonial government, the Iroquois came to believe that he had their interests at heart.

Johnson's influence with the Iroquois was an important factor in the French and Indian War (1754–1763). On September 8, 1755, Johnson's British colonial forces, with assistance from the Iroquois, defeated the French at the Battle of Lake George. The British victory ended French designs on New York.

Johnson received two rewards for his victory. King George III made him the baronet of New York, and in 1756 London made him the superintendent for Indian affairs in the north. Until Johnson's death in 1774, he held the Iroquois firmly under British influence. In the Treaty of Fort Stanwix (1768), Johnson secured a cession from the Iroquois and established a border for the colony with the confederacy. The British government, realizing the importance of keeping the Iroquois placated, pressured the New York government to settle a series of land disputes with the Indians. One troublesome land grant, the Kayaderosseras Patent (1708), about which the Iroquois had complained for sixty years, finally was resolved in a compromise.

Indian Relations of New York State

At the beginning of the American Revolutionary War in 1775, the new patriot government of New York wanted to keep the Iroquois Confederation neutral. On the other hand, Johnson's heirs tried to convince them to aid the British cause. A Presbyterian minister, Samuel Kirkland, convinced the Oneidas and Tuscaroras to reject the British, while the other Iroquois tribes remained committed to the British. In 1779 American troops under John Sullivan and James Clinton attacked the Iroquois and burned their towns and crops. British forces led by the Mohawk Joseph Brant (Thayendanegea), in turn, destroyed settlements of pro-American Iroquois. The death and destruction the Iroquois suffered during the war destroyed the military power of the Confederation.

With the Americans' final victory in 1781, New York's state government insisted that it, rather than the Continental Congress, controlled the fate of the Iroquois. In 1784 New York's governor, George Clinton, warmly praised the wartime efforts of the Oneidas in the Revolution. He assured everyone that the state would not demand land cessions from the Oneidas in western New York. The pro-British Iroquois might lose territory, he declared, but not the valiant pro-American Oneidas.



This 1771 map of the province of New York depicts the locations of the tribes comprising the Six Nations: the Mohawk, Cayuga, Onondaga, Oneida, Seneca, and Tuscarora.

Clinton's vow lasted only until 1785. New York's hold on its western territory had never been formally confirmed by the British, and Massachusetts claimed it. New York wanted to obtain Iroquois land to keep it out of the grasp of Massachusetts. By 1785 many New Yorkers also hoped to improve transportation in the western part of the state, all the way to the Great Lakes if it could be accomplished. At a conference with the Oneidas in 1785, Governor Clinton completely surprised his listeners by announcing the state's plan to buy Oneida land. In 1788 the Oneidas relented and sold over five million acres to the state. Oneida property continued to shrink in the 1790s when the state demanded territory for a turnpike. During the 1820s and 1840s, many Oneidas abandoned New York and settled in Wisconsin and Canada. By the early 1900s, a few hundred Oneidas owned a total of thirty-two acres of land in the state of New York.

New York also targeted the Senecas for land cessions. The Treaty of Buffalo Creek (1838), although a federal treaty, was engineered by New Yorkers, especially President Martin Van Buren (1837–1841), whose political base was in upstate New York and who wanted the Iroquois removed across the Mississippi River. Van Buren hoped the treaty would strengthen Democratic support in New York. As president, Van Buren obtained the treaty's ratification, resulting in the acquisition of almost all Seneca land. The Senecas were to be removed to a Kansas reservation; a number of people who attempted to move there died on the

way. However, that treaty was so obviously fraudulent that the government followed it with a supplemental treaty in 1842. It restored some of the land and established reservations in New York, but it did not return valuable property around Buffalo. The victory of the Whig Party in the national elections of 1840 ended the drive for the forced relocation of the Iroquois, and as a result, New York would remain one of the few eastern states with a substantial Indian population and reservations.

Land Claims

Descendants of the Iroquois who stayed in New York sought legal redress over land rights in the federal courts during the twentieth century. In 1970 the Oneida tribe sued two New York counties, Oneida and Madison, claiming trespasses on their land. Alleging that the state of New York had obtained land in those counties during 1795 in defiance of the federal Trade and Intercourse Act of 1790 and 1793, which prohibited the states from acquiring Indian land, the Oneida sought compensation for trespasses that happened only during 1968–1969 on their property. The Oneida initially lost in the lower courts. However, in 1974 the U.S. Supreme Court overturned those courts in the case of *Oneida Indian Nation of New York State et al. v. County of Oneida et al.* (1974) and declared that it was proper for the federal courts to consider the case. When the case was heard, the Oneidas won, receiving an award of \$16,694 and interest from the two counties,

which appealed. In 1985 the Supreme Court upheld the Oneida claim and the financial award.

Meanwhile, when the Oneidas purchased some of the land in Oneida County involved in the original case, the community of Sherrill, New York, attempted to assess real estate taxes. The Oneidas, insisting they were a sovereign nation beyond the jurisdiction of the states, refused to pay the tax. In *City of Sherrill, New York v. Oneida Indian Nation of New York* (2005), the Supreme Court held that the Oneidas had simply waited too long to claim sovereignty over the land in question and that the land was subject to state tax.

The Iroquois tribes have continued to dispute New York's claims to power over them. In 1997 New York governor George E. Pataki tried to force Indian reservations to collect state sales taxes on both gasoline and cigarettes sold by the Senecas. Leaders of the Senecas bitterly opposed the governor, insisting that they were a sovereign nation exempt from taxation by the state.

See also *American Revolutionary War (1775–1783)*; *France, Indian Policy of*; *Fur Trade*; *Great Britain, Indian Policy of*; *Indian Policy of the Continental Congress*; *Johnson, William*; *Netherlands, Indian Policy of*.

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BIBLIOGRAPHY

- City of Sherrill, New York v. Oneida Indian Nation of New York*, 544 U.S. 197 (2005).
- Colden, Cadwallader. *The History of the Five Indian Nations Depending on the Province of New-York in America*. Orig. Pub. 1727, 1747; Ithaca, N.Y.: Cornell University Press, 1958.
- Fenton, William N. *The Great Law and the Longhouse: A Political History of the Iroquois Confederacy*. Norman: University of Oklahoma Press, 1998.
- Glatthaar, Joseph T., and James Kirby Martin. *Forgotten Allies: The Oneida Indians and the American Revolution*. New York: Hill and Wang, 2006.
- Graymont, Barbara. *The Iroquois in the American Revolution*. Syracuse, N.Y.: Syracuse University Press, 1972.
- Hauptman, Laurence M. *Conspiracy of Interests: Iroquois Dispossession and the Rise of New York State*. Syracuse, N.Y.: Syracuse University Press, 1999.
- . *The Iroquois Struggle for Survival: World War II to Red Power*. Syracuse, N.Y.: Syracuse University Press, 1986.
- Norton, Thomas Elliot. *The Fur Trade in Colonial New York, 1686–1776*. Madison: University of Wisconsin Press, 1974.
- Oneida Indian Nation of New York et al. v. County of Oneida, New York, et al.*, 414 U.S. 661 (1974).
- O'Toole, Fintan. *White Savage: William Johnson and the Invention of America*. New York: Farrar, Straus and Giroux, 2005.
- Richter, Daniel K. *The Ordeal of the Longhouse: The Peoples of the Iroquois League in the Era of European Colonization*. Chapel Hill: University of North Carolina Press, 1992.

Trelease, Allen W. *Indian Affairs in Colonial New York: The Seventeenth Century*. Ithaca, N.Y.: Cornell University Press, 1960.

Webb, Stephen Saunders. *1676: The End of American Independence*. New York: Alfred A. Knopf, 1984.

Nez Perce War (1877)

The Nez Perce War was a series of battles fought in 1877 between the Nez Percés and the United States. The conflict illustrated both the violence provoked by the reservation system and the growing disaffection with that policy among U.S. military officers, politicians, and reformers. Other factors were the mounting pressures of white colonization upon Native tribes and the tendency of the federal government to conclude treaties with “client chiefs” whose authority did not extend as far as American commissioners presumed.

In 1855, when Lawyer and other Nez Perce (*Nimípu*) leaders agreed to the formation of a reservation in north-central Idaho, a chief called Old Joseph refused to cede his land in the Wallowa Valley of northeastern Oregon. He also refused to sign the 1863 “Thief Treaty” that drastically reduced the original Nez Perce reservation after gold was discovered there, and on his deathbed he made his son promise never to sell their people's land. Young Joseph (*Hinmah-too-yah-lat-kekt*) kept the promise and refused to move to the reservation until 1877, when federal officials issued an ultimatum giving the Nez Percés who had not signed the treaty until April 1 to relocate. Joseph persuaded his people to go peacefully, but as they struggled to complete the move, angry young warriors slipped off and killed more than a dozen American settlers known for abusing Indians. General Oliver Otis Howard sent troops to punish the offenders, and fighting began with an American attack at White Bird Canyon on June 17.

After being routed in the first engagement, army forces pursued the fleeing Nez Percés on a 1,500-mile “Long March” across present-day Idaho, Wyoming, and Montana. The Indians—roughly eight hundred men, women, and children—headed east, hoping to find refuge in Crow country and then ultimately in Canada. Skillfully led by Joseph's brother Ollokot and the war chief Looking Glass, they fought off U.S. troops in numerous skirmishes and several major battles until General Nelson Miles intercepted them in early October near the Bear Paw Mountains—just thirty miles from the Canadian border. Joseph chose to surrender after five days of fighting, during which the Nez Percés lost most of their remaining leaders and their horses. Although

his surrender speech was likely embellished, his words have become a famous testament to the suffering of all Native Americans during this period: "I am tired of fighting. Our chiefs are killed. . . . It is cold and we have no blankets. The little children are freezing to death. . . . I want to have time to look for my children, and see how many of them I can find. Maybe I shall find them among the dead. Hear me my chiefs! My heart is sick and sad. From where the sun now stands, I shall fight no more forever" (Alvin M. Josephy Jr., *Nez Perce Country*, 2007).

Although Joseph was the tribe's civil chief and responsible for tribal diplomacy and the care of women and children, the American press and public credited him with the Nez Percés' military exploits. He became a national celebrity and, after a dismal seven-year exile in Indian Territory, his people were allowed to settle on the Colville reservation in northeastern Washington Territory. Joseph refused to take an allotment there and continued to plead for the right to return to the Wallowa Valley, but he died in 1904 without seeing his old home again. By transforming him into a noble symbol of Native resistance to the reservation system, the Nez Perce War contributed to the gradual shift from a policy of separation toward one of assimilation.

See also *Joseph, Chief; Lawyer; Military Policy of the United States, 1860–1890; Reservations.*

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BIBLIOGRAPHY

- Hampton, Bruce. *Children of Grace: The Nez Perce War of 1877*. New York: Henry Holt, 1994.
- Josephy, Alvin M., Jr. *Nez Perce Country*. Lincoln: University of Nebraska Press, 2007.
- . *The Nez Perce Indians and the Opening of the Northwest*. New Haven, Conn.: Yale University Press, 1965.
- Slickpoo, Allen P., Sr., and Deward E. Walker Jr. *Noon Nee-Me-Poo (We, the Nez Percés): Culture and History of the Nez Percés*. Lapwai: Nez Perce Tribe of Idaho, 1973.

Nixon, Richard M.

Richard M. Nixon (1913–1994) was the thirty-seventh president of the United States, serving from 1969 to 1974. His term in office followed the attempts of presidents John F. Kennedy and Lyndon B. Johnson to limit the previous federal policy of termination, which sought an end to the government's fiduciary responsibilities to Native American tribes. Nixon faced a growing Native activism that drew attention to the past oppression and current injustices faced by American Indians in the United States.

Nixon's Native American policies formally ushered in the era of self-determination, which was consistent with his goal of decentralizing federal programs. In 1970 Nixon made a special address to Congress in which he fully rejected the federal policy of forced termination and called for congressional action to overturn the legislation that had authorized it in 1953, House Concurrent Resolution 108. Nixon stated that the goal of U.S. Indian policy should be to restore and enhance tribal autonomy.

In the address, Nixon also asked for a number of specific changes in federal policy, including legislation to transfer federal administration of social services and schools to tribes, the creation of an Indian Trust Counsel Authority to mediate disputes and provide legal representation to tribes in matters of natural resource rights, the restoration of some Native lands, legislation to provide for funding and planning of reservation-based economic development and health care programs, and for the expansion of social service programs for urban Indians. Finally, Nixon asked Congress to create the position of an assistant secretary of the interior for Indian affairs, a cabinet-level post that would replace the position of commissioner of Indian affairs.

Two of the first results of Nixon's policy were the 1970 return of Blue Lake to the Taos Pueblo tribe and the 1971 Alaska Native Claims Settlement Act, which transferred title of forty-four million acres of land to Alaska Natives. These initial moves were heartening to Native leaders. At the same time, Native activists were conducting some of their most confrontational acts. Members of the American Indian Movement (AIM) and their supporters occupied California's Alcatraz Island from 1969 to 1971, demanding unsuccessfully that it be transformed into a Native American educational and cultural center. In November 1972 members of a broad coalition of Native groups participated in the Trail of Broken Treaties caravan that culminated in the occupation of the Bureau of Indian Affairs (BIA) offices in Washington, D.C. The occupation resulted in \$1.5 million in damages to the BIA offices and an eventual shake-up in BIA leadership. In February 1973 over two hundred members of AIM began a seventy-day occupation of Wounded Knee on the Oglala Sioux reservation in South Dakota that evolved into an armed confrontation between government agents and AIM leaders.

These actions left Nixon's administration on the defensive. As he took office for a second term in 1973, Nixon rejected the demands presented by Native activists during the 1972 caravan, which included a return to pre-allotment

sovereign tribal status and the honoring of a number of previous treaty agreements. Native communities were also disappointed that the budgets for some Native programs were cut as their administration shifted from the federal government to tribes or states.

Despite the continuing tensions, Nixon continued to pursue an agenda based on self-determination for tribes. The 1973 Menominee Restoration Act acknowledged the Menominee tribe's right to self-determination and ended its terminated status. Nixon also established the Office of Indian Water Rights and authorized the Department of Agriculture to make agricultural loans to tribal communities. The 1974 Indian Financing Act encouraged a number of tribal economic development activities.

Nixon dramatically increased funding in some aspects of Native programming. In 1973 he increased appropriations for the BIA by 214 percent and mandated that those funds be allocated in accordance with the wishes of tribal leaders. He also doubled funding for Indian health care programs during his administration.

The culmination of Nixon's efforts came after he resigned from office with passage of a bill he had long championed, the 1975 Indian Self-Determination and Education Assistance Act. The act allowed tribes to take control of many programs that had been federally operated and granted them some oversight and additional funding for Indian education programs.

Although Nixon was not successful in achieving all of his ambitious goals, and he faced significant opposition from Native activists, his administration has been remembered for successfully ending the era of termination and implementing major steps toward tribal self-determination.

See also *Alaska Native Claims Settlement Act of 1971*; *Alcatraz Island, Seizure of*; *American Indian Movement (AIM)*; *House Concurrent Resolution 108*; *Indian Financing Act (1974)*; *Indian Self-Determination and Education Assistance Act (1975)*; *Indian Trust Counsel Authority*; *National Congress of American Indians*; *Self-Determination*; *Taos Pueblo of Blue Lake*; *Trail of Broken Treaties (1972)*; *Wounded Knee (1973)*, *Occupation of*.

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BIBLIOGRAPHY

- Hertzberg, Hazel Whitman. "Indian Rights Movement, 1887–1973." In *Handbook of North American Indians*, edited by William C. Sturtevant, 305–323. Washington, D.C.: Smithsonian Institution Press, 1988.
- Hoff, Joan. *Nixon Reconsidered*. New York: Perseus Book Group, 1994.

Kotlowski, Dean J. "Alcatraz, Wounded Knee, and Beyond: The Nixon and Ford Administrations Respond to Native American Protest." *The Pacific Historical Review*, vol. 72 (May 2003): 201–227.

Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.

Riggs, Christopher K. "Review of George Pierre Castile's *To Show Heart: Native American Self-Determination and Federal Indian Policy, 1960–75*." *The Pacific Historical Review*, vol. 70 (February 2001): 147–148.

Wilkins, David. "Who's in Charge of U.S. Indian Policy? Congress and the Supreme Court at Loggerheads over American Indian Religious Freedom." *Wicazo Sa Review*, vol. 8 (Spring 1992): 40–64.

Nongovernmental Organizations (NGOs)

Nongovernmental organizations (NGOs) are nonprofit groups that organize around a specific issue or community and remain structurally unaffiliated with any government. NGOs can be local, national, or international and can advocate and educate the citizenry and government leaders about issues, policies, and strategies of importance to the organizations' members. Of the thousands of nongovernmental organizations around the world, over three thousand have official consultative status with the United Nations that allows them to attend special UN conferences and participate in fora. The Tribal Link Foundation, which connects indigenous people with needed resources, is an example of a nongovernmental organization with consultative status working within the United Nations, in part, to fulfill its mission.

In the United States alone there are more than forty thousand NGOs that work to improve the quality of life for their membership or constituencies. Some NGOs engage in public advocacy, education, and lobbying on a particular set of issues, while others provide humanitarian relief. Native American NGOs, which number in the thousands, are active in every state in the nation and in Washington, D.C., with the largest number in California and Alaska. Most are located in cities and serve both urban and reservation-based communities by providing health care, education, and housing services while representing the political and economic interests of Native peoples to local, state, and national lawmakers. National Native organizations include the National Congress of American Indians, which represents 250 tribes and educates the public and lawmakers about the concerns of these tribes, and the Native American Rights Fund, which provides legal and educational services for Native rights and interests. Hundreds of smaller groups work within commu-

nities or on specific issues to improve Native quality of life. Examples include the Minnesota Indian Women's Resource Center, which provides services and community-building activities for Minnesota's Native women, and the Foundation for the American Indian, which promotes wind energy projects on tribal lands.

NGO Status

The U.S. tax code grants 501(c)(3) tax status to many nongovernmental organizations, making them exempt from paying income or property taxes while allowing them to receive tax-deductible contributions from individuals, corporations, and foundations. Under tax law, organizations with 501(c)(3) status must limit their lobbying of elected officials to no more than 20 percent of their overall activity. Organizations that exceed this limit are given 501(c)(4) status, which provides exemption from taxation but does not permit collection of tax-deductible donations.

The 501 tax status is most often granted through a state government. However, Native nongovernmental organizations often use tax code status 7871 to replace or augment 501 status. The 7871 status is granted through tribal governments and features general requirements consistent with 501 status. Tribal organizations are working to ensure that 7871 status is respected by individuals and philanthropic and governmental organizations on a par with 501 status.

Native NGOs

Clans, town councils, and other tribal institutions traditionally served the needs of Native societies by creating community, mutual aid, and a sense of structure. The majority of Native nongovernmental organizations were not founded until after the 1950s, when the increased urbanization of American Indians led many to form organizations for a sense of community.

The burgeoning cultural and political movements of the 1960s and 1970s, combined with changes in federal Native policy, spurred the creation of Native advocacy and direct action organizations. Over 70 percent of these organizations were founded after 1973, growing in sync with social and governmental policy trends. Groups such as the Native American Rights Fund engage in lobbying and legal action in pursuit of Native rights. The federal government's shift toward a policy of self-determination has resulted in a surge in Native NGO formations, while changes to federal Native education policy have prompted the creation of many educational organizations and foundations.

Specific legislation has also been a factor in the creation of Native organizations. The Indian Self-Determination and Education Assistance Act of 1975 allows tribes to manage Native programs, which has prompted the creation of a number of organizations for this purpose. The growth of Native nonprofit organizations continues to parallel the growth of Native tribal and private businesses.

Governmental trends in the 1970s and 1980s spurred the development of nongovernmental organizations in every sector, and Native NGOs began to appear at a rate similar to that in the general community. As the federal government sought to actively devolve federal social programs to local jurisdictions, tribal associations began to serve in functions that had at one time been performed by the government. Federal and state budget cuts prompted many Native communities to create organizations as a means of replacing diminished or terminated services.

Federal legislation also spurred increased autonomy for tribal groups. In 1987 the Tribal Self-Governance Demonstration Project Act allowed many larger tribes to take on the administration of programs previously under the control of the Bureau of Indian Affairs. In 1994 the government handed over to tribes several additional programs for their full management through the Tribal Self-Governance Act.

Native organizations serve in a complex array of roles. Eighty percent provide direct services through education, housing, arts, cultural development, or health care programs, and other organizations engage in direct advocacy, research, or the pursuit of a specific, non-service-related goal. Compared to general nongovernmental organizations in the United States, a higher percentage of Native groups are engaged in cultural or artistic pursuits.

Federal and state laws require that tax-exempt organizations establish a board of directors. Among Native groups, 80 percent of NGO board members represent Native communities. Of the hundreds of Native organizations, most have small staffs run largely by Native women. Annual budgets for these NGOs are typically less than \$250,000, most of which is garnered from government, corporate, and foundation grants as well as individual gifts.

See also *American Indian Movement (AIM)*; *Indian Rights Movements*; *Indian Self-Determination and Education Assistance Act (1975)*; *National Congress of American Indians*; *Native American Rights Fund*; *United Nations*.

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BIBLIOGRAPHY

- Black, Sherry Salway. "The Emerging Sector: Nonprofits in Indian Country." *First Nations Publications*, April 2003, http://www.firstnations.org/publications/TheEmergingSectorDraftApril2003_webversion.pdf.
- Cowan, Mark J. "Leaving Money on the Table(s): An Examination of Federal Income Tax Policy Toward Indian Tribes." *Florida Tax Review*, 6 (2004).
- Mason, M. S. "Rebuilding the Indian Nations," *Christian Science Monitor*, August 21, 1990, 14.
- Muldoon, James P., et al. *Multilateral Diplomacy and the United Nations Today: An Introduction to the Study of International Organizations*. Jackson, Tenn.: Westview Press, 2005.

Northwest Ordinance (1787)

The United States government that operated under the authority of the 1781 Articles of Confederation enacted a federal law called the Northwest Ordinance in 1787. This law helped open western Indian lands for settlement and incorporation into the United States. The Northwest Ordinance organized the American settlement of the Northwest Territory and ultimately created the present-day states of Ohio, Illinois, Indiana, Wisconsin, and Minnesota.

The ordinance set out provisions for expanding American settlements, establishing federal territories and territorial governments, and creating new American states in the Northwest Territory. Under the ordinance, lands were purchased from Indian tribes by the United States, and then the federal government sold the land to American settlers and kept the enormous profits.

Article III of the ordinance specifically stated, "The utmost good faith shall always be observed towards the Indians, their lands and property shall never be taken from them without their consent; and in their property, rights and liberty, they shall never be invaded or disturbed, unless in just

and lawful wars." This was an indication that the United States was moving away from simply seizing territory from the tribes and imposing conditions upon them toward a policy that recognized the rights of Native communities.

At the same time, the U.S. Congress was also using the ordinance to reaffirm the legal title to lands it had supposedly acquired from Great Britain by virtue of the United States's victory in the American Revolutionary War (1775–1783). Under the doctrines of discovery and conquest, Great Britain had claimed control over Indian lands in North America. The United States subsequently used the same doctrines to exert dominion and overarching title over the Indian lands in the Old Northwest.

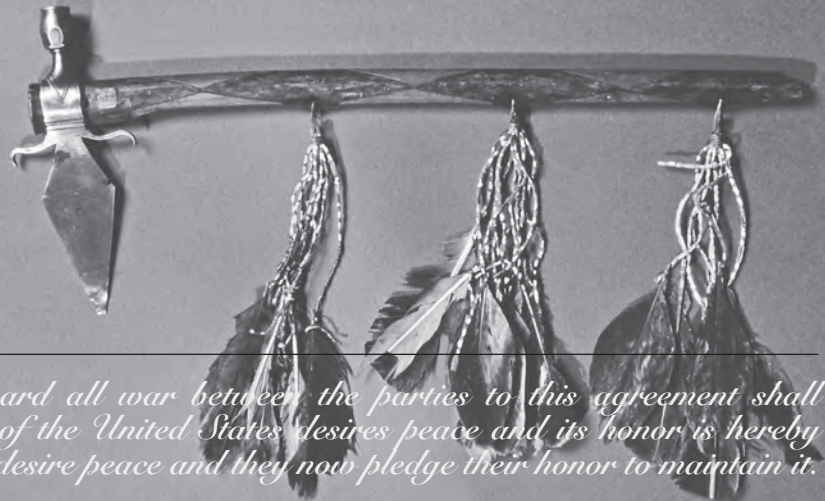
Later, the United States would use the ordinance as a precedent to organize territories acquired from the Indian tribes in the West. Many have argued that the nation often departed from the "utmost good faith" requirement of the ordinance. In *Lone Wolf v. Hitchcock* (1903), the U.S. Supreme Court declared that only Congress had the authority to determine if the government was acting with "utmost good faith" towards the Native population, a decision that essentially handed Congress free rein over U.S. Indian affairs.

See also *American Revolutionary War (1775–1783)*; *Discovery, Doctrine of*; *Great Britain, Indian Policy of*; *Just War*; *Lone Wolf v. Hitchcock* (1903); *Ordinance for the Regulation of Indian Affairs (1786)*; *Westward Migration*.

Robert J. Miller

BIBLIOGRAPHY

- Miller, Robert J. *Native America, Discovered and Conquered: Thomas Jefferson, Lewis and Clark, and Manifest Destiny*. Westport, Conn.: Praeger Publishers, 2006.
- Onuf, Peter S. *Statehood and Union: A History of the Northwest Ordinance*. Bloomington: Indiana University Press, 1992.



Article 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they now pledge their honor to maintain it.

Oakes, Richard

Mohawk activist Richard Oakes (1942–1972) was born on the St. Regis reservation in New York in 1942. After quitting school in the eleventh grade, Oakes briefly worked construction on high rise buildings in New York City before traveling to California. He visited several Indian reservations in the state and became aware of the political and economic situation of the Natives living on them.

Indian activists, primarily college students, occupied Alcatraz Island in November 1969 with the goal of promoting self-determination. The event became a catalyst for the emerging Indian activism movement. Oakes served as leader of the governing council established on the island during the occupation. He prepared press releases and formal demands that were sent to President Richard Nixon and members of his cabinet. Nixon responded by declaring that the Indians on Alcatraz would not be removed by force and that negotiations would take place in an attempt to achieve resolution.

The mainstream press recognized Oakes as the leader of the Alcatraz occupation. He had participated in the planning of the occupation and was the elected spokesperson for the group Indians of All Tribes. The press labeled him “The Mayor of Alcatraz” and “The Indian Marlon Brando.” This incited jealousy among some of the other Indians on the island, who challenged Oakes’s leadership and threatened the original concept of the occupation.

On January 5, 1970, Oakes’s twelve-year-old stepdaughter, Yvonne, fell three floors down a stairwell to her death. One of Oakes’s stepsons had been threatened and beaten two weeks earlier. Oakes felt that Yvonne had been pushed to her death by those in opposition to him. He and his fam-

ily left Alcatraz Island, and the occupation became increasingly disorganized before its end in June 1970.

Oakes continued to be active in Indian social issues. He was particularly instrumental in the Pit River Indian movement to regain ancestral lands in northern California. On September 21, 1972, Oakes was shot and killed by a Young Men’s Christian Association (YMCA) camp employee in Sonoma County, California. At that time, members of the American Indian Movement were planning a car caravan to Washington, D.C., to protest the failure of the U.S. government to live up to treaty agreements with American Indian tribes. Oakes’s death served as a rallying point and a catalyst for that caravan, which was known as the Trail of Broken Treaties. Among the demands presented was one that would have made the killing of an Indian a federal offense.

See also *Alcatraz Island, Seizure of; American Indian Movement; Indian Rights Movements.*

Troy R. Johnson

BIBLIOGRAPHY

Johnson, Troy R. *The Occupation of Alcatraz Island: Indian Self-Determination & The Rise of Indian Activism*. Urbana: University of Illinois Press, 1996.

Smith, Paul Chaat, and Robert Allen Warrior. *Like a Hurricane: The Indian Movement from Alcatraz to Wounded Knee*. New York: New Press, 1996.

Oconostota

Oconostota (c. 1710–1783), also called the Great Warrior of Old Echota, held considerable influence among the Cherokees for several decades. As a war chief, he was known for taking prudent actions in battle to prevent undue loss of

warriors and property. As a diplomat, he practiced neutral isolationism to avert war.

In 1759 Oconostota attempted to negotiate peace with the British government in Charleston but was instead imprisoned by the governor of South Carolina. After Cherokee chief Attakullakulla negotiated his release, Oconostota was determined to go to war to drive the British out of Cherokee territory, and in 1760 he led an attack on Fort Prince George. After Oconostota shot a British lieutenant who was coming out of the fort to negotiate a settlement, the British killed all of their Cherokee prisoners. In retaliation, Cherokee war parties attacked colonial settlements and besieged Fort Loudoun. British troops responded by invading the Cherokee Nation and destroying several villages in what became known as the Anglo-Cherokee War (1761–1762). Oconostota's forces eventually surrendered, and in 1763 the Cherokees signed a treaty with the British that resulted in a large land cession.

Unlawful encroachment on Cherokee lands and resources forced Oconostota, Attakullakulla, and other Cherokee leaders to sign the 1775 Henderson Purchase, in which the Cherokees ceded land in present-day Kentucky. The cession crystallized the Cherokees into two camps: those led by Dragging Canoe who wanted to attack American settlements, and those—including Oconostota—who wanted to remain neutral in the looming war between Great Britain and the colonies.

Ultimately, Oconostota chose to ally with the British. After suffering devastating defeats at the hands of southern state militias in the Cherokee War of 1776, Cherokee elders, guided by Oconostota, sued for peace with the Americans. Oconostota surrendered his position of leadership at the end of the war and died shortly thereafter.

See also *Attakullakulla (Little Carpenter); Cherokee War of 1776; Dragging Canoe; Great Britain, Indian Policy of.*

Rowena McClinton

BIBLIOGRAPHY

- Dowd, Gregory Evans. *A Spirited Resistance: The North American Struggle for Unity, 1745–1815*. Baltimore, Md.: John Hopkins University Press, 1992.
- Hatley, Thomas. *The Dividing Paths: Cherokees and South Carolinians through the Era of Revolution*. New York: Oxford University Press, 1993.

Office of Indian Affairs (OIA)

See *Bureau of Indian Affairs (BLA)*.

Office of Tribal Justice (OTJ)

The Office of Tribal Justice (OTJ), a division of the U.S. Department of Justice (DOJ), provides legal advice to governmental entities on issues pertaining to federal Indian law and serves as the primary point of contact for Indian tribes with the DOJ. The office works with tribal police departments, state law enforcement departments, the Federal Bureau of Investigation, the Bureau of Indian Affairs' Office of Law Enforcement Services, and other federal law enforcement agencies operating in and around Indian Country. It also cooperates with the U.S. Border Patrol on Native American border security issues. It does not provide advice to private citizens and is separate from the Bureau of Indian Affairs.

As a result of an exceptionally high rate of violent crime in Native American communities and U.S. Supreme Court decisions that have led to confusion over jurisdictional issues in these cases, the OTJ has devoted much of its energy to crime-related concerns since its creation in 1995. There have been a number of legal disputes over whether a state or a tribal court has the authority to prosecute crimes involving Native Americans. The OTJ protects tribal sovereignty in the courts by representing the federal government in suits or as an *amicus curiae* ("friend of the court") in cases involving tribal regulatory, adjudicatory, or tax jurisdiction, including a tribe's right to exercise jurisdiction in domestic relations cases involving tribal members.

See also *Crime, Regulating in Indian Country; Indian Police Forces; Law Enforcement in Indian Country.*

Caryn E. Neumann

BIBLIOGRAPHY

Office of Tribal Justice, U.S. Department of Justice, www.usdoj.gov/otj/.

Oil and Gas

Native American tribes own about 2 percent of the United States' land base, with trust lands totaling fifty-six million acres in the continental United States and forty-four million acres in Alaska. Although some tribal lands are only marginally productive, many tribes retain lands that hold potentially lucrative energy resources, especially in the West. Tribes own 4 percent of the nation's oil and gas, 10 percent of onshore natural gas deposits, 40 percent of its uranium, and 30 percent of its coal reserves (all figures exclude Alaska). In 2004 Indian-owned oil and gas production generated more

than \$245 million in royalty revenues, suggesting that Indian-owned oil and gas resources yielded more than \$2 billion in output. Historically, tribes have contributed enormously to energy development, including \$15.3 billion in oil, \$8 billion in natural gas, and \$10 billion in coal.

Estimates regarding undeveloped and undiscovered U.S. energy indicate 10 to 30 percent more resources may exist than have already been identified on tribally controlled lands. To date more than two million acres of land have been actively mined for gas, oil, and coal, but another fifteen million have potential for such development. Railroads (beneficiaries of generous construction land subsidies from the federal government in the nineteenth century) and the federal government are the only other mineral property owners with holdings as large as tribes. According to one study, Native Americans represent 1 percent of the U.S. population but hold 10 percent of the nation's energy reserves.

Tribal land owners producing energy resources have historically received compensation at lower rates than non-Indian landowners. Since the nineteenth century, when it began exercising control over tribal lands and resources, the Department of the Interior (DOI) has played a central role in overseeing and approving contracts between non-Indian energy companies and tribes. Paternalistic federal policies, ostensibly designed to protect Indians from exploitation, meant that Native Americans often received shamefully low royalty rates and experienced obstacles to controlling production themselves. Further, unscrupulous interests often exploited individual Indians who earned royalties and became rich virtually overnight. At the end of the twentieth century, however, tribes began to challenge paternalistic policies and gain greater control over their oil and gas resources.

Early History of Oil Development on Tribal Lands

Congress initially authorized the leasing of minerals on tribal and allotted lands in 1891, if the tribal councils approved the project and the secretary of the interior consented to the terms. The Osage Tribe in Oklahoma was among the first of Indian landowners to lease oil and gas when their tribal council approved a lease in 1896. They agreed to a blanket lease that covered the entire reservation. A number of disadvantages resulted from this decision: it accorded neither the surface owner nor the environment much protection; it offered no competition and so income remained low; and it gave oil crews free rein to use surface wood and water for oil derrick construction. When the lessee failed to produce oil within eighteen months, the tribe canceled the contract. The

lessee, however, often appealed to the government and had the lease reinstated without tribal consent.

Displeased, the Osage Tribe fought to take a more active role in resource decisions. Although they could not stop the forced allotment of their reservation lands, they were able to retain tribal rights to the subsurface—the “underground reservation” of oil. By 1911 the tribe created the Osage Protective Association, which successfully blocked renewal of the blanket lease the next year and provided some protection to surface owners. Each Osage tribal member received a “headright,” or equal share of all mineral income. By 1917 one headright was worth \$2,719. Three years later it increased to \$8,090. This wealth brought prosperity but also problems to the Osage people. Whiskey, drugs, and an epidemic of murders, called the “Osage Reign of Terror,” accompanied the oil boom of the 1920s.

The Turn to Tribal Ownership of Production

Particularly since the 1970s, tribes have followed the Osage example and demanded greater control over their oil and gas reserves. They worked for reform measures that included finding ways to renegotiate royalty rates, to levy tribal taxes on energy companies, to participate in actual production, and to hire Native American workers, among other things. In 1975 a number of tribes joined together to create the Council of Energy Resource Tribes (CERT) to share information, obtain scientific expertise, ensure fair lease payments, and increase tribal political clout. By the 1990s court and legislative victories acknowledged the authority of Native American tribes to tax mineral producers, enforce royalty regulations, impose air and water quality standards, issue tax-free bonds, and negotiate with industry to develop their own resources.

Perhaps no better example exists of the opportunity these reforms can provide than that of the Southern Utes. Their 700,000-acre reservation in Colorado's San Juan Basin contains one of the world's richest deposits of methane found in coal seams. As a result, the Southern Utes control the distribution of approximately 1 percent of the nation's natural gas supply. The tribe's holdings are worth an estimated \$4 billion. Energy companies began drilling for natural gas on Southern Ute lands in the 1950s. Reflecting the politics of the time, the tribe had little power over development decisions and received meager royalties, which tribal members received as per capita payments. In the 1970s tribal chair Leonard Burch began to change the dynamics of Southern Ute energy policy. He stopped per capita payments and

instead sent the lease payments to the tribal government. Burch and the tribal government declared a moratorium on new mineral leases until the tribe could build its own management capabilities. In the 1980s the tribe also enacted a severance tax, a tax on oil, gas, and other natural resources extracted from reservation lands by non-tribal corporations. Still, by 1990 the Southern Utes were not prospering, despite the operation of sixty-three oil and gas companies on their reservation.

Understanding that the real profits came not in royalties but in ownership of production, the Southern Ute tribe eventually created Red Willow Production Company and began buying back wells and leases. By the mid-2000s, Red Willow had interests in more than 1,000 wells, operated 450 wells on the reservation (second only to British Petroleum), and was the thirteenth largest privately held energy company in the United States. The tribe also created the Red Cedar Gathering Company to transport natural gas. It owns 3,000 miles of pipelines, processes natural gas, and delivers it for transmission. The Southern Ute tribe employs more than 600 people in several states. By the beginning of the twenty-first century, Red Willow's and Red Cedar's net revenues totaled about \$100 million. To offset the day when natural gas prices decline or the resource itself disappears, the Southern Utes established the Permanent Fund, a conservatively invested endowment, to cover tribal government costs and services. In 2005 the fund's worth approximated \$650 million. The vast majority of the Growth Fund's assets are in energy, but its directors have expanded into non-energy investments as well, including real estate.

Other tribes have pursued other projects related to gas and oil. Several, for instance, have taken advantage of the deregulation of electricity markets in the United States, building and controlling or leasing land to natural gas-fueled power plants on reservations. The Calpine Corporation operates a 540-megawatt natural gas facility on the Fort Mojave reservation in Arizona. The Confederated Tribes of the Umatilla Indian reservation in Oregon are constructing a 1,200-megawatt gas-fired power plant. The tribe will receive both revenue and a share of the electricity from the project.

As tribes have increased their involvement in various kinds of oil and gas development, the Council of Energy Resource Tribes and others have pushed the federal government to streamline its approval process for energy projects. In 2005 Congress passed the Indian Tribal Energy Development and Self-Determination Act. It gives tribes the option of signing

a "tribal energy resource agreement" (TERA) with the secretary of the interior, allowing them to self-regulate energy resources on their lands. Once a TERA is approved, the tribe can sign certain types of leases and other business agreements without requiring long, painstaking federal review. The act also created the Office of Indian Energy Policy and Programs within the Department of Energy (DOE) to provide technical aid and make tribes, along with states, eligible for certain DOE grants. Some observers worry that tribes lack adequate oversight enforcement, lawyers, or scientists to protect themselves from more experienced energy developers. Others note that the provisions of the Indian Tribal Energy Development bill await appropriations to fund the programs. Nor is energy development itself universally accepted within reservation communities. Some people within tribal communities express doubts about the wisdom of tearing up "Mother Earth" for oil and gas, leading to internal debates and disputes. Reservation land is more than a mere repository of natural resources. It is a place of immense cultural value, and industrializing the landscape for economic gain does not appeal to everyone. Whatever the outcome of these community discussions, it is clear that energy tribes are exercising greater self-determination over their oil and gas reserves. In the future, decisions about development will rest primarily within the tribes, and tribal members will receive a fair share of the profits.

See also *Council of Energy Resource Tribes; Indian Tribal Energy Development and Self-Determination Act (ITEDSDA; 2005); Mining and Mineral Rights; Self-Determination.*

Sherry L. Smith

BIBLIOGRAPHY

- Ambler, Marjane. *Breaking the Iron Bonds: Indian Control of Energy Development*. Lawrence: University Press of Kansas, 1990.
- Fixico, Donald L. *The Invasion of Indian Country in the Twentieth Century: American Capitalism and Tribal Natural Resources*. Boulder: University Press of Colorado, 1998.
- The Harvard Project on American Indian Economic Development. *The State of the Native Nations: Conditions Under U.S. Policies of Self-Determination*. New York: Oxford University Press, 2008.
- Jorgensen, Joseph G., ed. *Native Americans and Energy Development*. Boston: Anthropology Resource Center and Seventh Generation Fund, 1984.
- Smith, Sherry L., and Brian Frehner, eds. *Indians and Energy: Exploitation and Opportunity*. Santa Fe, N.M.: School of Advanced Research Press, 2009.
- Thorne, Tanis. *The World's Richest Indian: The Scandal Over Jackson Barnett's Oil Fortune*. New York: Oxford University Press, 2003.
- Wilson, Terry P. *The Underground Reservation: Osage Oil*. Lincoln: University of Nebraska Press, 1985.

Oklahoma

Oklahoma (Choctaw for *red people*) is a land of diverse and complex cultural heritage. Entering the United States in 1907 as the forty-sixth state, Oklahoma was at various times in its history part of the Spanish and French empires, part of the southernmost extreme of the Louisiana Purchase, the western extreme of the Arkansas Territory, and the Indian Territory to where the Five Southeastern tribes were forced to migrate. The territory was opened up to American settlement by the land runs of the late 1880s and 1890s, experienced an oil boom in the early twentieth century, and was devastated by drought and poverty during the Dust Bowl era of the 1930s. Throughout its history, Oklahoma has been the home of a number of Indian tribes.

The earliest inhabitants who migrated to Oklahoma more than ten thousand years ago were hunters and gatherers. They fished the streams of the Ouachita and Wichita mountains and navigated the main rivers of the region: the Cimarron, Arkansas, Canadian, and Red. The Caddoan and Wichita tribes lived in Oklahoma several thousand years ago, and several hundred years ago Apache and Comanche tribes hunted and spent part of every year in the region. Wichita and Caddoan tribes in eastern Oklahoma lived in villages and grew crops. In the mid-eighteenth century the Osage migrated to the Verdigris and Arkansas rivers, which they called “place of the oaks,” pushing the more peaceful farming Indians south across the Red River. By the nineteenth century the Osage were battling for resources with the Comanche and Cherokee tribes, as well as the increasing influx of Spanish, French, and English settlers into Oklahoma.

The first Europeans to visit Oklahoma were the Spanish. In 1541 Francisco de Coronado journeyed through northwestern Oklahoma in his pursuit of Quivira, where according to legend the Indians enjoyed a treasure of gold and silver. Generally, however, Spain restricted its northern boundary at the Red River. The French, intent on building a fur-trading empire in the trans-Mississippi region, ascended the Missouri, Platte, and Arkansas rivers. In 1719, for example, Bénard de La Harpe ascended the Red River to Oklahoma and journeyed overland to the Arkansas River. Near present-day Tulsa, La Harpe met and traded with the Wichitas; two years later, returning to the region, he stayed near the Three Forks (where the Arkansas, Verdigris, and Grand rivers meet), trading with a Wichita tribe called the “Three Canes People.” In subsequent years, French explorers and traders

were infrequent visitors to Oklahoma. In 1763, at the end of the French and Indian War (1754–1763), the Spanish assumed control of the Louisiana Territory. A few Spanish explorers journeyed into the region, including Athanase de Mézières y Clugny and Pedro Vial. But extensive immigration of whites into the region did not occur until after the United States purchased Louisiana from the French in 1803.

Louisiana Territory

Thomas Jefferson (1743–1826), as president of the United States (1801–1809), sent various explorers into the southern Louisiana Territory to discover its natural resources and geographic boundaries. Peter Custis and Thomas Sparks traveled up the Red River into southeastern Oklahoma in 1806, only to be turned back by Spanish troops. Zebulon Pike, ascending the Arkansas in 1806, sent his second in command, Lieutenant James Wilkinson, with a small contingent of men down the Arkansas in the winter of 1806–1807. He met with the Osages at Three Forks and learned that the Osage leader was Clermont, for whom the town Claremore was named. French trader Joseph Bougie soon followed Wilkinson and established a trading post at Three Forks. After the establishment of Fort Smith in 1817 at the confluence of the Poteau and Arkansas rivers, and the creation of the Arkansas Territory in 1819, which included parts of Oklahoma to the 100th meridian, more white traders, hunters, squatters, and ne’er-do-wells migrated into Oklahoma. The growing presence of Americans in Oklahoma exacerbated the already tense situation existing between the Osage and a large group of Cherokee Indians, who had migrated into the region in the early decades of the nineteenth century. The United States in 1824 established Fort Gibson at the Three Forks in order to provide some order to the area.

Indian Territory

The increasing population of the United States and its growing hunger for land pushed many tribes out of their ancestral homes. During the 1830s and 1840s the Cherokee, Choctaw, Creek, Chickasaw, and Seminole tribes were relocated by the federal government to the Indian Territory, which was established on what are now the same general borders of the state of Oklahoma. The removal of large numbers of people hundreds of miles caused suffering and the deaths of thousands due to privation and disease. Even so, in the two decades before the American Civil War (1861–1865), the five tribes reconstructed their societies and,

in some cases, even flourished: trade, agricultural produce, and slave plantations maintained the economy; tribal public schools educated children; and new or revitalized constitutional governments provided order. The Cherokee Nation was founded in northeast Oklahoma, the Creek Nation to the southeast, and the Choctaw Nation further south in southeast Oklahoma. The Chickasaw Nation existed west of the Choctaws, and the small Seminole Nation nestled between the Creek, Choctaw, and Chickasaw nations. In the 1850s and 1860s tribes such as the Miami, Shawnee, and Delaware, who were living in the Kansas-Nebraska Territory, were relocated south to western Oklahoma.

The Civil War impacted the lives of the Native people living in the Indian Territory. Some tribes allied with the Union, while those originally from the southeast signed treaties of alliance with the Confederacy. Some Indian nations, such as the Cherokee, were divided over the war. Individual Indians fought on both sides of the conflict, and several nations suffered from battles and feuds that resulted in casualties and the destruction of farms, homes, and property. Numerous refugees from the war fled south of the Red River.

Initially, the lands of the five southeastern tribes extended far to the west to the border with Texas. The United States, however, forced the southeastern tribes to surrender lands in the western portion of their territory, abolish slavery, and accept the freed slaves as citizens as a condition of restoring relations. The immediate postwar period was hard on Oklahoma Indians. Reservations for tribes such as the Comanche, Apache, and Kiowa were created in the new federal lands of western Oklahoma. The General Allotment Act of 1887, or Dawes Act, required Indians of western Oklahoma to accept the division of their lands, hitherto held communally, into private farms. This was followed in 1893 by the establishment of the Dawes Commission, which attempted to bring about allotment in the eastern portion of the Indian Territory; and 1898 by the Curtis Act, which did extend the federal allotment system to the lands of the Southeastern tribes.

Oklahoma Territory

The Oklahoma Territory was comprised of Indian reservations as well as public lands that were opened to settlement in several land runs. For decades after the Civil War, white land speculators pushed for the settlement of the western lands of Indian Territory, which were sparsely settled. One such *Boomer* was David Payne, who actively promoted the

idea of opening the western lands to white settlement. President Grover Cleveland (1855–1859; 1893–1897) eventually signed an order for the opening of unassigned lands in the Cimarron and Canadian river valleys of central Oklahoma. Those who tried to establish claims before the official opening were called *Sooners*. The first land-run, April 22, 1889, involved hundreds of farmers and land speculators crossing the border between the Cherokee Strip, in northwestern Oklahoma, and the unassigned lands in wagons, on horseback, on bicycle, by train, or on foot, to claim 160-acre parcels of land.

The Santa Fe train brought some '89ers from the Cherokee Strip to the new town of Guthrie, where Sooners could file land claims. Others traveled further to Oklahoma City, where plenty of Sooners had already staked claims. Guthrie, Oklahoma City, El Reno, Norman, Stillwater, and Kingfisher became tent cities overnight. By nightfall of April 22, Guthrie had ten thousand people. Despite the presence of federal marshals and deputies, a great deal of lawlessness and claim-jumping ensued. Oklahoma Territory continued to grow between 1889 and 1907, as the federal government repeatedly acquired lands from Indian reservations and redistributed them to white Americans. Sac and Fox, Iowa, Shawnee, Potawatomi, and Pawnee lands were opened in 1891, followed by the much larger Cheyenne and Arapaho lands in extreme western Oklahoma, which were opened in 1892. The Cherokee Outlet was opened to settlement in September 1893; Kickapoo lands were opened in 1895; and Wichita and Caddo and Comanche, Apache, and Kiowa lands of southwestern Oklahoma were opened in 1901. Other Indian lands in northern Oklahoma belonging to the Kaw, Ponca, Oto-Missouri, and Osage tribes were acquired and opened for settlement between 1904 and 1906.

Meanwhile, in 1889, Indian Territory was formally designated as the region bounded by Kansas, Arkansas, Texas, and, to the west, the newly organized Oklahoma Territory. The cities of Indian Territory were growing because of the railroad, which provided a terminus for cattle drives from Texas, and the discovery of oil. An old Creek town called Tulsey, renamed Tulsa and incorporated in 1898, became the center of the northeast Oklahoma economy. The oil fields around Tulsa were some of the world's largest after the turn of the century. In 1907 the first refinery was constructed in Tulsa, which also featured a new college (later the University of Tulsa), a new bridge fording the Arkansas River, hotels, and a growing downtown.

Statehood

Hopes among the five main tribes of Indian Territory—the Cherokees, Choctaws, Creeks, Chickasaws, and Seminoles—to have their own state were dashed in 1905 after the federal government rejected the constitution drafted during the short-lived Sequoyah Convention. By 1906 the Oklahoma Enabling Act determined that the Twin Territories (Oklahoma and Indian) would merge into one state. Delegates were appointed to a state convention held at Guthrie; a constitution was drafted, and Oklahoma officially became the forty-sixth state on November 16, 1907.

By the time of statehood in 1907, Oklahoma was very diverse. Besides the dozens of Indian tribes, immigrants arrived to the open lands from western and eastern Europe; distinct German, Czech, British, Italian, and Jewish communities were founded in the state. African Americans were also attracted to the open lands, creating black towns such as Boley. The majority of these pioneers were poor, having to scrape by year after year on the sometimes scant produce of the land. Houses were initially made of sod; hunger was common.

The new state of Oklahoma was a mixed one of boom towns and small agrarian villages. Many Oklahomans were sharecroppers who were in debt and desperate. Discovery of oil and gas preserves led to a large influx of people intent on making fortunes; boom towns were chaotic and disorderly. The state was also politically diverse, although the Republican Party dominated the years of the territorial government.

Socialism was popular among farmers and former Populists before World War I (1914–1918). In the 1920s the Ku Klux Klan and Nativism gained popularity among many Oklahomans. Racial problems came to a head in 1921 in the massive Tulsa Race Riot, which left hundreds dead and injured and thousands homeless.

Oklahoma was a dry state from inception. Congress had outlawed alcoholic consumption in Indian Territory, and the state determined to follow suit in 1907. When the Eighteenth Amendment was passed in 1919, prohibition had existed in Oklahoma for twelve years, but it was a tenuous restriction both before and after the Eighteenth Amendment. Prohibition, however, did not prevent bootleggers from providing, and Oklahomans from drinking, alcohol. The Twentieth Amendment repealed prohibition in the United States in 1932, but Oklahoma remained dry until 1959.

Oklahoma's Indian tribes before and after statehood struggled to adapt to changes imposed on them by federal

and state laws. Perhaps the greatest tragedy was the general frauds and deceits that Oklahoma attorneys, judges, and politicians developed to swindle Native landowners out of their allotment rights. In *And Still the Waters Run* (1973), historian Angie Debo chronicled how prominent Oklahoma civic and political leaders exploited the state judicial system to dispossess thousands of young, old, and illiterate Indians out of their land and natural resource rights.

Indians, particularly in western Oklahoma, also had great difficulty adapting to white culture and federal land allotment laws. Baptist missionaries kept extensive diaries of their interaction with Indians and sent and received correspondence with individual Indians. They submitted detailed reports to missionary organizations that consistently recorded the chagrin, anger, and depression of Indians trying to conform to the beliefs, institutions, and laws of white civilization while being tugged in the different direction of their tribal past. Christian missionaries served as teachers and ministers to the tribes. Despite extensive instruction on public health and available medicines, tribal physicians continued to use traditional ways to heal the sick. Missionaries such as Robert Hamilton, who worked with the Cheyennes and Arapahos, reported on the poverty, malnutrition, sickness, and passivity brought about by a new way of life that negatively impacted the physical and emotional wellbeing of Indians.

Assimilation of Indians into white culture required education. Prior to statehood, Indian Territory schools were established by tribes such as the Cherokee and Creek. The tribes often worked with missionary organizations; for example, the Creeks worked with American Baptist missionary Almon C. Bacone to establish Indian University (now Bacone College) in Muskogee. The tribes of Oklahoma Territory also relied heavily on missionaries to provide for education in boarding and day schools. The Johnson-O'Malley Act of 1934 provided for federal subsidies to help states pay for the cost of education and medical treatment for Indians. Such acts were promulgated in part to quicken the assimilation of Indians into American life.

The relationship of Oklahoma Indians to the state of Oklahoma, like their relationship to the federal government, has been a confusing mixture of dependence and autonomy. The Oklahoma Indian Welfare Act of 1936 granted some self-determination to Indian tribes, but the termination movement at mid-century attempted to bring about a complete integration of Oklahoma Indians into white culture. In the 1960s, however, Native activism forced the United States

to begin returning powers of self-determination to the Indian tribes. The 1975 Indian Self-Determination and Education Assistance Act recognized Oklahoma Indian tribes as self-governing entities. Since that time, Native tribes in the state have been revitalizing their governments, reestablishing sovereign powers, and working toward economic and political autonomy. At the beginning of the twenty-first century Oklahoma Indians are expanding and diversifying their economic opportunities through gaming and other enterprises; recapturing their cultural identities through, for instance, language revitalization programs; and embracing education as the means to prepare their people for a more prosperous future.

See also *Civil War (1861–1865); Curtis Act of 1898; General Allotment Act (Dawes Act) of 1887; Indian Self-Determination and Education Assistance Act (1975); Indian Territory; Jefferson, Thomas; Johnson-O'Malley Act of 1934; Louisiana Purchase; Oklahoma Indian Welfare Act of 1936; Pike, Zebulon; Removal; Self-Determination; Termination and Restoration; Wilkinson, James.*

Russell M. Lawson

BIBLIOGRAPHY

- Baldwin, Kathlyn. *The 89ers: Oklahoma Land Rush of 1889*. Oklahoma City, Okla.: Western Heritage Books, 1981.
- Debo, Angie. *And Still the Waters Run: The Betrayal of the Five Civilized Tribes*. Princeton: Princeton University Press, 1973.
- Foreman, Grant. *A History of Oklahoma*. Norman: University of Oklahoma Press, 1942.
- Gibson, Arrell M. *Oklahoma: A History of Five Centuries*. Norman, Okla.: Harlow Publishing Corporation, 1965.
- Gittenger, Roy. *The Formation of the State of Oklahoma, 1803–1906*. Norman: University of Oklahoma Press, 1939.
- Lawson, Russell M. *The Land Between the Rivers: Thomas Nuttall's Ascent of the Arkansas, 1819*. Ann Arbor: University of Michigan Press, 2004.
- Miner, H. Craig. *The Corporation and the Indian: Tribal Sovereignty and Industrial Civilization in Indian Territory, 1865–1907*. Columbia: University of Missouri Press, 1976.
- Morgan, H. Wayne, and Ann Hodges. *Oklahoma: A History*. New York: Norton, 1984.

Oklahoma Indian Welfare Act (1936)

The Oklahoma Indian Welfare Act (1936) extended provisions of the Indian Reorganization Act (IRA) to Indian tribes in Oklahoma. The IRA, passed two years earlier in 1934, had ended the practice of allotment of tribal lands and authorized the establishment of tribal governments based on the municipal corporate model.

The Oklahoma congressional delegation had opposed inclusion of Oklahoma's Indians in the sweeping IRA legislation, arguing that the law would bring a return of communal landholding and a reemergence of the tribal governments that had been completely dismantled upon Oklahoma statehood. Oklahoma senator Elmer Thomas asserted that the Indians in eastern Oklahoma were mostly acculturated and claimed that restoring the Native land base would be a step back in their "progress." Thomas and his allies swayed Congress to their point of view, and the final version of the IRA excluded the state of Oklahoma.

Progressive reformer, and commissioner of the Office of Indian Affairs, John Collier disagreed with this result and pushed to have the IRA provisions extended to Oklahoma's Indians. In 1934 he arranged a tour of Oklahoma's reservations with Senator Thomas, during which he and Thomas queried Indian people on the merits of the IRA. Indians in eastern Oklahoma, mostly members of the five major tribes that had been relocated to Oklahoma (Indian Territory) from the Southeast (Cherokees, Chickasaws, Choctaws, Creeks, and Seminoles) praised the legislation, in particular, the provisions that allowed for the reformation of tribal governments and the establishment of tribal corporations.

Senator Thomas came away from the tour convinced that at least some of the act's provisions should be applied to Oklahoma Indians. Upon his return to Washington, Collier drafted the legislation that Thomas and Oklahoma House representative Will Rogers then sponsored in Congress. After considerable debate, revision, and compromise, the final bill—the Oklahoma Indian Welfare Act—enabled Oklahoma's tribes to reestablish tribal governments and adopt constitutions. It also authorized the federal government to place land in trust for individual tribes. The act provided support for economic development by allowing ten or more persons to establish "cooperative associations" and created a revolving loan fund of \$2 million that could be used by individuals, associations, or other Native groups for "credit administration, production, marketing, consumers' protection, or land management."

Provisions that would have exempted reservation mineral deposits and oil and natural gas production from state taxes and prohibited individual Indians from selling their allotments were deleted from the final bill.

The Oklahoma Indian Welfare Act, despite its flaws, allowed several tribes to reestablish their tribal governments,

improve their economic situations, and begin reacquiring a land base.

See also *Collier, John; Indian New Deal; Indian Reorganization Act (1934); Oklahoma; Roosevelt, Franklin D.*

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BIBLIOGRAPHY

Debo, Angie. *And Still the Waters Run*. Princeton: Princeton University Press, 1940.

Philp, Kenneth R. *John Collier's Crusade for Indian Reform, 1920–1954*. Tucson: University of Arizona Press, 1977.

Wright, Peter M. "John Collier and the Oklahoma Indian Welfare Act of 1936." *Chronicles of Oklahoma* 50 (Autumn 1972): 347–371.

Oliphant v. Suquamish Indian Tribe (1978)

Oliphant v. Suquamish Indian Tribe, 435 U.S. 191 (1978), signaled a major turning point in the U.S. Supreme Court's approach to federal Indian law. The central issue in the case was whether an Indian tribe could prosecute a non-Indian for crimes committed in Indian Country. The case began when the Suquamish Indian tribe filed criminal charges against two non-Indians who lived on the Port Madison reservation in Washington State. Mark David Oliphant was charged with assaulting a tribal police officer and resisting arrest; Daniel Belgarde was charged with leading police on a high-speed car chase that ended when he crashed into a tribal police car. Both men argued that Indian tribes lost the ability to prosecute non-Indians when the tribes fell under the dominion of the United States government. The U.S. Supreme Court agreed, holding that tribal prosecutions of non-Indians were inconsistent with the tribes' status as dependent nations.

Prior to the Court's decision in *Oliphant*, the two bedrock principles of Indian law provided that (1) tribes are sovereign governments whose sovereignty remains intact (despite being made part of the United States) unless the tribe has ceded the power in question in a treaty or Congress has removed the power by statute, and (2) Congress possesses plenary power over Indian affairs, which includes the power to determine federal policy for dealing with tribes.

In *Oliphant*, the Court first concluded that Congress, the executive branch, and the lower federal courts shared a presumption that tribal courts lacked the power to try non-Indians for crimes. The Court found this presumption by examining historical material such as treaties with other tribes, an opinion issued and then withdrawn by the Interior Department, and a one-hundred-year-old opinion by the

federal district court for the Western District of Arkansas. The Court then determined that its decisions illustrated that tribal sovereignty could be limited if the power in question was inconsistent with the tribe's dependent status, and not only if the power was ceded in a treaty or removed by Congress. The term "dependent" is drawn from *Cherokee Nation v. Georgia* (1831), one of the Court's earliest Indian law decisions. In that opinion, the Court ruled that tribal governments were no longer foreign nations, but rather were part of the United States; the Court described tribes as "domestic dependent nations."

The Court's decision in *Oliphant* has been roundly and heavily criticized by most scholars as poorly reasoned and based on poor historical support. The opinion also marked a major change in the Court's Indian law decisions and signaled an increased activism on the part of the Court in Indian law matters. Before *Oliphant*, the Court had deferred to Congress and the executive branch on federal Indian policy and had been protective of tribal sovereignty. After *Oliphant*, the Court was much less deferential to the other branches and much less protective of tribal sovereignty. A line of cases over the next several decades continued *Oliphant's* trend of limiting tribal jurisdiction in both criminal and civil matters.

The decision was also notable as it ran counter to the way criminal jurisdiction was handled for both state and federal governments. Prior to *Oliphant*, crimes had always been viewed as a breach of the peace and a government always possessed authority to prosecute crimes occurring in its territory. Governments did not prosecute crimes occurring in other governments' territories unless the crime itself continued across the boundary (such as when a kidnapper took his victim across state lines). After *Oliphant*, tribes lost the ability to prosecute non-Indians who committed crimes in their territory. If the victim was a non-Indian, the authority to prosecute rested with the state; if the victim was Indian, the authority to prosecute rested with the federal government. This created practical difficulties, particularly for crimes involving Indians and non-Indians, as federal prosecutors were often reluctant or unable to allocate resources to prosecute crimes viewed as minor, such as property crimes or even crimes against persons where no serious physical injury was inflicted. Since neither the state nor the tribe possessed jurisdiction to prosecute in these cases, many tribes began to see an increase in crimes committed by non-Indians against Indians, as the perpetrators knew the possibility of federal prosecution was slim.

Because the Court's reasoning in *Oliphant* relied on inadequate support and precedent, many scholars speculated that the decision was motivated by the fact that Indian tribes were not bound by the U.S. Constitution, in that non-Indians were not protected by the Bill of Rights. Although many of those provisions are imposed on tribes through the Indian Civil Rights Act (ICRA), the act does not require tribes to provide defendants with the right to counsel. The Court's concern about subjecting U.S. citizens to trials not regulated by the U.S. Constitution has been explicitly mentioned in subsequent Court decisions.

The Court's *Oliphant* decision was also clearly motivated by the fact that less than 1 percent of the residents of the Port Madison reservation were tribal members, although demographics had not previously played a role in determining whether other tribes possessed criminal jurisdiction over non-Indians. After *Oliphant*, all tribes lost that authority, regardless of their demographics. It is possible, however, that even after *Oliphant*, tribes might possess the ability to bring criminal contempt charges against a non-Indian, as courts are usually considered to possess inherent authority to use contempt powers to control litigants appearing before the court. This particular issue has not been addressed by the U.S. Supreme Court.

See also *Bill of Rights*; *Cherokee Nation v. Georgia*; *Constitution, United States*; *Crime, Regulating in Indian Country*; *Indian Civil Rights Act of 1968*; *U.S. Supreme Court and Indian Policy, 1978–* .

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BIBLIOGRAPHY

- Heisey, Geoffrey C. "Oliphant and Tribal Criminal Jurisdiction over Non-Indians: Asserting Congress's Plenary Power to Restore Territorial Jurisdiction." *Indiana Law Journal*, vol. 73 (1998): 1051–1081.
- Indian Civil Rights Act*, Public Law 90–284, 90th Cong., 2d sess. (April 11, 1968).
- Maxfield, Peter C. "Oliphant v. Suquamish Tribe: The Whole is Greater than the Sum of its Parts." *Journal of Contemporary Law*, vol. 19 (Fall 1993): 391–443.
- Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978).

Opothleyahola

Opothleyahola ("Good Child Singer" or "Good Shouting Child"; c. 1798–1863) was an Upper Muscogee Creek chief who played a major role in Creek politics and diplomatic relations for over forty years.

Born in Tuckabatchee, Creek Nation, Opothleyahola fought as a Red Stick under William Weatherford against the

United States in the Creek Civil War (1813–1814). He soon became renowned for his oratory skills and became speaker of the Upper Creek council. Later, he led the council in protests against the Treaty of Indian Springs (1825), an agreement signed only by a dissident Creek faction led by William McIntosh that ceded Creek lands in Georgia. The Creek National Council rejected the treaty and ordered McIntosh's execution based on a law that prohibited the sale of national lands without the consent of the government.

Opothleyahola helped negotiate the Treaty of Washington (1827), which replaced the Treaty of Indian Springs. The new treaty still required the Creeks to abandon their territory in Georgia and relocate to Alabama. Opothleyahola attempted suicide during this time, apparently in distress over the pressures on the Creeks to remove. Divisions among the Creeks worsened again with the Treaty of Cusseta (1832), which divided Creek lands into individual allotments. The federal government and the state of Alabama hoped that most Creeks would sell their allotments and remove to the Indian Territory (in what is present-day Oklahoma).

After a failed attempt in 1834 to purchase land from the Mexican government in what later became Texas, Opothleyahola aided the United States by leading an army of Creeks and Seminoles against Osceola's rebellion against removal in Florida (Second Seminole War [1835–1842]). Despite this, Opothleyahola and his followers were forced to remove. In 1837 he guided about 2,700 traditionalist Creeks to the Canadian River in present-day Oklahoma. Perhaps as many as 3,500 of the 15,000 Creeks died as a consequence of removal. Another faction that had been aligned with the executed leader, William McIntosh, settled near the Arkansas River. This group more typically sought accommodation with the United States.

At the outbreak of the American Civil War (1861–1865), Opothleyahola, now a successful planter, vowed to stay neutral and urged his followers to keep out of the conflict. The Arkansas McIntosh Creeks, on the other hand, signed a treaty binding them to the Confederate States of America in 1861. When civil unrest broke out between the two Creek factions, Opothleyahola and about eight thousand other Creeks relocated to the Deep Fork River. When attacked by Confederate forces, Opothleyahola led his followers into battle at Round Mountain on November 19, 1861, and Chusto Talasah on December 9, 1861. The Confederates then attacked Opothleyahola's group on December 26, 1861, at Chustenalah, forcing them to flee the Indian Territory and seek protection from the Union in Kansas.

Unfortunately, the hardship of the journey, relentless attacks from Confederate soldiers, and failure of Union support upon arrival in Kansas ultimately proved fatal for Opothleyahola and hundreds of other refugees. Many of his followers who survived the evacuation later joined the Union Army and helped the United States retake control of the Indian Territory.

See also *Civil War (1861–1865); Confederate States of America; Indian Territory; McIntosh, William; Removal; Second Seminole War (1835–1842); Weatherford, William.*

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BIBLIOGRAPHY

- Clark, Carter Blue. "Opothleyahola and the Creeks during the Civil War." In *Indian Leaders: Oklahoma's First Statesmen*, edited by H. Glenn Jordan and Thomas M. Holm, 49–63. Oklahoma City: Oklahoma Historical Society, 1979.
- Foreman, Grant. *The Five Civilized Tribes*. Norman: University of Oklahoma Press, 1934.
- Hatch, Thom. *The Blue, the Gray, and the Red: Indian Campaigns of the Civil War*. Mechanicsburg, Pa.: Stackpole Books, 2003.
- McBride, Lela J. *Opothleyahola and the Loyal Muskogee: Their Flight to Kansas in the Civil War*. London: McFarland, 2000.

Ordinance for the Regulation of Indian Affairs (1786)

On August 7, 1786, the Congress of the United States enacted the Ordinance for the Regulation of Indian Affairs. Though limited in power by the Articles of Confederation, the ordinance asserted the exclusive rights of the federal government over individual states by establishing a centralized bureaucracy for dealing with Indian tribes. Known as the superintendency system, it granted to the U.S. government the right to acquire Indian lands, establish territorial boundaries, and, most important, regulate private trade with tribes.

The system was divided into a northern and a southern department at the Ohio River. Regional superintendents, appointed for a period of two years by the secretary of war, administered the provisions of the ordinance. One of their primary duties was the licensing of residents and traders, as only U.S. citizens with the proper license could reside with or conduct business with the Indians. The superintendents also handled the prosecution of nonlicensed persons found in the territory. Charged with the supervision of government-run trade houses, agents supplied necessary stores and provisions to tribes in their jurisdiction as allocated by

Congress. Despite its inherent flaws and the abuses of power and outright bribery often associated with it, the system evolved as a key component in Indian administration throughout the nineteenth century.

See also *Articles of Confederation; U.S. Indian Policy: Congress and the Executive, 1775–1803.*

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BIBLIOGRAPHY

- Horsman, Reginald. *Expansion and American Indian Policy, 1783–1812*. Norman: University of Oklahoma Press, 1992.
- McCormick, Richard P. "Ambiguous Authority: The Ordinances of the Confederation Congress, 1781–1789." *American Journal of Legal History*, vol. 41, no. 4 (1997): 411–439.
- Prucha, Francis Paul. *American Indian Policy in the Formative Years: Indian Trade and Intercourse Acts, 1790–1834*. Lincoln: University of Nebraska Press, 1970.

Osceola

Osceola (c. 1804–1838) led the fight against the forced removal of the Seminoles to Indian Territory. Though he claimed to be a full-blooded Indian, Osceola was apparently the son of British trader William Powell and a Creek woman, Polly Copinger. Born near the Tallapoosa River close to the present-day border between Alabama and Georgia, Osceola grew up in Alabama as a Muscogee Creek called Billy Powell. Rather than submit to the terms of the 1814 Treaty of Fort Jackson, which called for the Creeks to cede millions of acres of land to the U.S. government, Osceola and his mother fled to Florida with many other Red Stick Creeks and joined the Seminoles. During the Creek Green Corn Dance, he received the name of Asiyahola ("Black Drink Singer").

Osceola fought in the First Seminole War (1817–1818) and may have been captured and held prisoner briefly by Andrew Jackson's army. Osceola came to prominence in later years as his bilingualism enabled him to participate in intercultural affairs. He opposed the 1823 Treaty of Moultrie Creek, in which the Seminoles agreed to move to a reservation in the center of Florida. After the treaty was signed, Osceola continued to fight U.S. efforts to force the Seminoles out of Florida and in 1826 moved to the Big Swamp area with several followers.

In 1830 President Andrew Jackson pushed the Indian Removal Act through Congress, and from that point forward he pressed the Indian nations in the East, including the Seminoles, to sign removal treaties. In 1832 the Seminoles



Osceola led the fight against Seminole removal to Indian Territory.

signed the Treaty of Payne's Landing under which they were to be removed to a reservation in Arkansas where they would be united with the Creeks against whom they had fought in the Creek Civil War (1813–1814). In addition, the treaty required all blacks living with the tribe, many of whom were escaped slaves who had intermarried with the Seminoles, to be turned over to white authorities. Infuriated by the treaty, Osceola strongly opposed it as well as the 1833 Treaty of Fort Gibson, which declared that the Arkansas territory was acceptable to the Seminoles as a new home. He went from town to town urging armed resistance to any removal attempts. Consequently, he became a leader of the anti-relocation resistance.

This resistance culminated in the Second Seminole War (1835–1842) that began when Osceola and his supporters assassinated Seminole leader Charley Emathla, who had signed a removal treaty in April 1835. On December 28, 1835, Osceola and his followers also killed Wiley Thompson, the American agent to the Seminoles who had forced the tribe to sign a removal treaty, and five civilians.

On December 31 Osceola won a decisive victory over U.S. forces at the Withlacoochee River. With about 250 men, he repelled about eight hundred U.S. soldiers under General Duncan L. Clinch's command. Osceola was wounded but escaped capture.

For most of the following two years, Osceola led a guerilla campaign, attacking federal forces and American settlements and capturing or killing their livestock. Osceola's military prowess and anti-Americanism led to his rise to head warrior of the entire Seminole nation. He used a cat-and-mouse strategy against U.S. troops in the Everglades that cost the U.S. government about \$20 million in military expenditures.

In the summer of 1837, Osceola contracted malaria. Weakened by the illness and tired of fighting, he asked General Thomas Sydney Jesup for a truce in October 1837. Osceola traveled to Fort Peyton under a white flag, but Jesup ordered U.S. soldiers to capture him, as well as eighty-one other Seminoles who were part of the peace-seeking group. The Seminoles were imprisoned in St. Augustine at Castillo de San Marcos. When Osceola continued to refuse to support Indian removal, Jesup relocated him to Fort Moultrie in South Carolina.

On January 30, 1838, Osceola died at Fort Moultrie of malaria (some reports maintain that he was poisoned or killed in prison) in full battle gear. Osceola's head was removed by a military surgeon, and the skull was exhibited to curious onlookers at several spots in the United States and then maintained in a museum at the Medical College of New York until the building was destroyed by fire in 1865.

Despite the loss of their leader, the Seminoles continued to oppose removal until 1842, when most were removed to the Indian Territory (in what is present-day Oklahoma). Many Seminoles escaped removal and continued to hide out in the swamps of Florida; they reemerged later as the core of the revived Seminole and Miccosukee nations in the twentieth century.

See also *First Seminole War (1817–1818); Fort Jackson (1814), Treaty of; Indian Territory; Jackson, Andrew; Removal; Second Seminole War (1835–1842).*

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BIBLIOGRAPHY

- Hartley, William, and Ellen Hartley. *Osceola: The Unconquered Indian*. New York: Hawthorne, 1973.
- Mahon, John K. *History of the Second Seminole War, 1835–1842*. Gainesville: University of Florida Press, 1967.

Wickman, Patricia R. *Osceola's Legacy*. Tuscaloosa: University of Alabama Press, 1991.

Ouray

Ouray (1833–1880) was a chief of the Southern Utes during the mid-1800s. His father was Jicarilla Apache and Tabeguache Ute. Ouray grew up in New Mexico with his mother, who was Uncompahgre Ute. He moved to Colorado at age eighteen to join the Tabeguache. After the death of his first wife, Ouray married Chipeta (1843–1924) in 1859. She traveled with him on his trips to Washington, D.C., and was an able ambassador.

Ouray is remembered as a friend to the United States who adopted many Euro-American customs, although he continued to wear his hair in long braids. He rose to prominence partly because he spoke Spanish, English, Apache, and Ute—a useful skill on a multicultural frontier. In 1863 he helped negotiate the Treaty of Conejos between the Utes and the United States (represented by Colorado Territorial Governor John Evans), which ceded his people's claims to all lands east of the continental divide and to the mineral rights under all of their territory. The Utes kept their part of the treaty, which included leaving U.S. citizens alone when they came to dig for gold and other minerals.

In 1868 the federal government reacted to complaints that the Utes were a “nuisance” and decided that they should be restricted to a reservation. Ouray, nine other chiefs, and their friend Christopher “Kit” Carson traveled to Washington, D.C., to address the issue. The United States insisted that one person be made the chief of all seven bands that were represented, and Ouray was given this role. The Utes rejected the original U.S. offer and retained sixteen million acres of their lands. Two agencies were set up; U.S. citizens were restricted from reservation lands; and the Utes were promised funding for clothing, food, livestock, and education.

By 1873 the situation had deteriorated. Miners found valuable deposits on Ute lands in the San Juan Mountains, and the Utes never received funding promised in the treaty. The federal government sent Felix Brunot to negotiate further land cessions. The result was the Brunot Treaty, which led to the Ute loss of four million acres and a promise that Ouray would receive a salary of \$1,000 per year for ten years, as long as he held the peace. This special favor angered many other Utes.

Nonetheless, the peace held and things went relatively smoothly until 1878, when Nathan Meeker was appointed

as U.S. agent for the Utes. Meeker became deeply upset that the Utes refused to build a farming community in what he considered a workmanlike fashion. He alienated the Utes and inspired a movement among non-Indians to have the tribe removed to Indian Territory (present-day Oklahoma). The situation exploded in 1879, when U.S. troops entered the reservation and Meeker was killed. Ouray, already ill, went to Washington to negotiate one last time with the U.S. government. This time, the Utes lost all but a small strip of their lands in Colorado. Ouray died in 1880 before most of the Utes were moved to reservations in Utah.

See also *Brunot, Felix Reville; Removal; Reservations; U.S. Indian Policy: Congress and the Executive, 1845–1877.*

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BIBLIOGRAPHY

- Becker, Cynthia S., and P. David Smith. *Chipeta: Queen of the Utes: A Biography*. Montrose, Colo.: Western Reflections Publishing Co., 2003.
- Brown, Dee. *Bury My Heart at Wounded Knee: An Indian History of the American West*. New York: Holt, Rinehart and Winston, 1970.
- Decker, Peter R. *“The Utes Must Go!”: American Expansionism and the Removal of a People*. Golden, Colo.: Fulcrum Publishing, 2004.
- Simmons, Virginia McConnell. *The Ute Indians of Utah, Colorado, and New Mexico*. Boulder: University Press of Colorado, 2000.

Owen, Robert Latham

Robert Latham Owen (1856–1947), U.S. senator from Oklahoma, spent much of his public life promoting the interests of American Indians.

Owen was the son of a Scots-Irish father and a Cherokee mother. He moved to the Cherokee Nation and taught at the Cherokee Orphan Asylum for the 1879–1880 school year before taking up the practice of law. He served as Indian agent for the five southeastern tribes in the Indian Territory from 1885 to 1887. In 1890 Owen became the attorney for the Choctaws. He later served the Western and Eastern Cherokees in the same capacity and recovered from the U.S. government millions of dollars in claims for these tribes. A wealthy man of many talents, he also organized the First National Bank of Indian Territory in 1890 and served as its president for the next ten years.

Owen drafted the legislation that gave U.S. citizenship to every Indian in Indian Territory. He was also heavily involved in the discussions that transformed the Indian Territory into the state of Oklahoma. In 1907 Owen joined Thomas P. Gore in the U.S. Senate as the first senators from

the new state of Oklahoma. Reelected twice, he unsuccessfully pursued the Democratic nomination to the presidency in 1920. Owen was a cosponsor of the Federal Reserve Act and the Keating-Owen Child Labor Law of 1916. He favored the removal of restrictions on the sale and lease of Indian lands and pursued the immediate payments of money due the Indians by the U.S. government. He also persuaded the Senate to refrain from giving the Office of Indian Affairs the responsibility of suppressing peyote, a hallucinogen used in rituals of the Native American Church. Owen died July 19, 1947, in Washington, D.C.

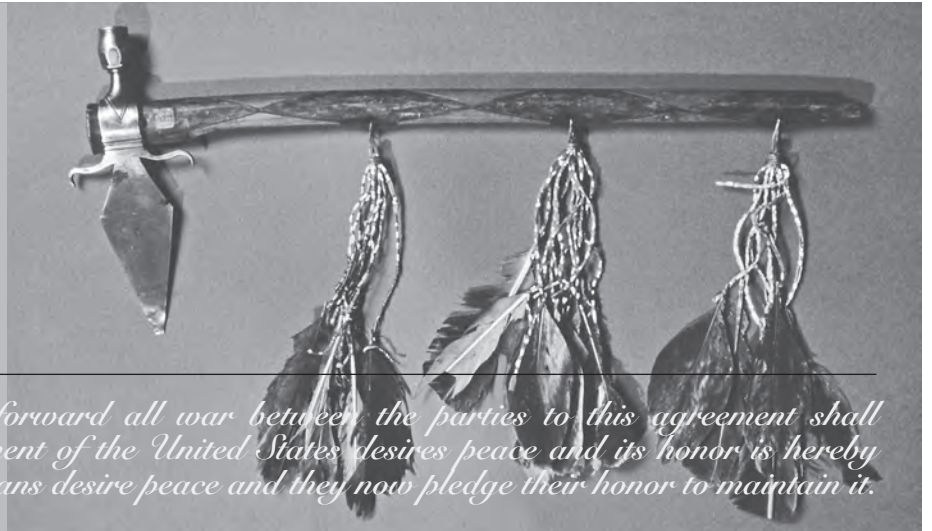
See also *Indian Territory; Native American Church.*

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BIBLIOGRAPHY

- Brown, Kenny. "A Progressive from Oklahoma: Senator Robert Latham Owen, Jr." *Chronicles of Oklahoma*, vol. 62 (Fall 1984): 232–265.
- Keso, Edward Elmer. *The Senatorial Career of Robert Latham Owen*. Nashville, Tenn.: George Peabody College for Teachers, 1937.

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Article 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they now pledge their honor to maintain it.

Paiute (Pyramid Lake) War (1860)

The Paiute (or Pyramid Lake) War consisted of two battles between white settlers and a large band of Paiute Indians, along with some Bannock and Shoshone allies. The war took place near Carson Valley, Nevada, in May 1860 and was the last major Indian conflict before the Civil War (1861–1865). The war arose out of an incident at Williams Station—an outpost for Nevada miners—in which white traders kidnapped and raped two Indian girls. The Paiutes responded by attacking the station and rescuing the girls, killing five whites, and setting fire to the station in the process.

A citizen army consisting of one hundred troops was formed and marched toward Pyramid Lake, seeking revenge. On May 12, 1860, at the Big Bend of the Truckee River, the citizen army was ambushed by the Paiutes, who were led by Chief Numaga. The Paiutes used poisoned arrows to kill nearly half of the citizen army and send the rest of the soldiers into retreat.

When news of the defeat reached the California governor, he sent a small number of U.S. infantrymen to ensure that the California Trail remained open. These professional soldiers were joined by local volunteers and ultimately comprised a force of eight hundred men. This army marched to the Truckee River and engaged a small number of Paiutes in fighting there before pursuing the Indians to Pinnacle Mountain. Ultimately, the Paiutes were handily defeated in this second and final battle. After the war, the United States built Fort Churchill to protect travelers on the California Trail.

See also *California Indians*; *United States–Indian Wars (1848–1891)*; *Westward Migration*.

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BIBLIOGRAPHY

Egan, Ferol. *Sand in a Whirlwind: The Paiute Indian War of 1860*. Reno: University of Nevada Press, 1985.

Palmer, Joel

Joel Palmer (1810–1881) was a significant figure in Indian relations in Oregon, for he negotiated a number of treaties that opened what later became the states of Oregon and Washington to non-Indian settlement.

In 1845 Palmer led an Oregon Trail wagon train from Indiana to Oregon. From 1847–1848, he served as the commissioner of peace in the Oregon Territory, his tenure coinciding with the beginning of the Cayuse War (1848–1855). Palmer served as Oregon Territory's superintendent of Indian affairs from 1853 to 1856, at the end of a three-year period of conflict between Tutuni and Shasta groups in the mountains of southern Oregon and northern California and Euro-American settlers who had flooded the region, many as a result of a gold rush. A veteran of earlier conflicts in Oregon Country between indigenous groups and aggressive settlers, Palmer negotiated a series of treaties in 1855 for the government that brought him into contact with Yakama, Nez Perce, Umatilla, Wasco, Cayuse, Warm Springs, Tenino, and other tribes east of the Cascade Mountains. He understood that it was impossible to prevent invading settlers from encroaching on Indian lands, and with that in mind he, along with Washington territorial governor Isaac Ingalls Stevens, convinced most Indian leaders in June 1856 to accept resi-

dence on reservations. During his time as commissioner, Palmer also persuaded most of the tribes west of the Cascades to relocate to reservations; many of them removed to the Siletz and Grand Ronde reservations that Palmer established in western Oregon. According to one estimate, Palmer's treaties cleared two-thirds of the Indian title in Oregon.

Palmer invited trouble by charging that land-hungry settlers had caused the Indian wars in the region and that the government had a responsibility to protect Indians. Opponents claimed that Palmer's policies as superintendent of Indian affairs threatened white settlers and that his criticism cost Oregon in its attempt to get Congress to pay for the state's war costs. By August Palmer had been forced out as superintendent. Sixteen years later, after an active career in Republican politics, during which he served in the state legislature, Palmer returned to the Indian service as Indian agent at the Siletz reservation. As agent he established a tribal court, secured more government aid to encourage farming, and again drew the wrath of whites for taking the Indians' side in disputes. He resigned as agent in 1872 and lived in Dayton, Oregon, until his death in 1881 at age seventy-one.

See also *California Indians; Cayuse War (1848–1855); Gold and Gold Rushes; Rogue River War; Stevens, Isaac Ingalls; Stevens-Palmer Treaties; Westward Migration.*

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BIBLIOGRAPHY

- O'Donnell, Terrence. *An Arrow in the Earth: General Joel Palmer and the Indians of Oregon*. Portland: Oregon Historical Society Press, 1991.
- Schwartz, E. A. *The Rogue River Indian War and its Aftermath, 1850–1980*. Norman: University of Oklahoma Press, 1997.
- Spaid, Stanley. "The Later Life and Activities of General Joel Palmer." *Oregon Historical Quarterly*, vol. 55 (December 1954): 310–332.

Paris (1763), Treaty of

The Treaty of Paris of 1763 concluded the Seven Years' War (1754–1763; known in North America as the French and Indian War). The treaty was negotiated by Great Britain, France, and Spain, with Portugal also signing. The companion Treaty of Hubertusburg ended the same war between Prussia, Saxony, and Austria. The Treaty of Paris facilitated the exchange of many colonial territories, including the transfer of most of France's empire in the Americas to Great Britain and Spain. For American Indians, the treaty prompted years of political dislocation and conflict, as many of the Indian

nations of Canada, the Great Lakes region, and the Ohio and Mississippi valleys that had been in alliance with France had to accommodate themselves to British sovereignty.

In North America, the Seven Years' War pitted Great Britain, its colonies, and American Indian allies (primarily the Iroquois) against France and its Indian allies. After initial French successes, British forces won victories at Louisbourg (1758), Quebec (1759), and Montreal (1760) that vanquished French power in North America. Negotiations between the French and British governments to end the war began in September 1762. British prime minister John Stuart dispatched the duke of Bedford to negotiate with the French foreign minister, who in turn sent the duc de Nivernois to negotiate in London. A preliminary treaty was agreed upon on November 3, 1762, and the formal treaty signed at Paris on February 10, 1763.

Under the terms of the treaty, France was forced to transfer most of its American colonial holdings and claims to Great Britain, with some exceptions. France had secretly transferred its claim to the western Mississippi Valley (or the Louisiana Territory) to Spain the day after the preliminary peace of November 1762. Great Britain also allowed France to keep the Caribbean island of Guadeloupe and the right to maintain small fishing settlements on the islands of St. Pierre and Miquelon in the Gulf of St. Lawrence. Great Britain was now the sovereign of all of eastern North America, winning Canada and eastern Louisiana from France and the Floridas from Spain. Britain also won territorial and trading concessions from Spain and France in Central America, Africa, and India.

With the British Empire the only European power exercising sovereign power in eastern North America, the new prime minister, George Grenville, put forward a series of policies to maintain order and gather revenue to repay Britain's extensive war debt. Economization forced a decline in the number of trade goods distributed to the Indian peoples of the eastern woodlands, which helped trigger Pontiac's Rebellion of 1763–1766. This violence spurred Grenville to push forward wartime plans to declare a permanent boundary between American Indian communities and European settlements. The result was the Royal Proclamation of 1763. It was not until a series of treaties in the late 1760s that most eastern Indians accepted British sovereignty. Additionally, the attempted closure of the trans-Appalachian region to European settlement angered many British colonists and helped fuel the discontent that culminated in the American Revolution.

See also *American Revolutionary War (1775–1783)*; *France, Indian Policy of*; *French and Indian War (1754–1763)*; *Great Britain, Indian Policy of*; *Pontiac's Rebellion*; *Proclamation of 1763*.

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BIBLIOGRAPHY

Anderson, Fred. *Crucible of War: The Seven Years' War and the Fate of Empire in British North America*. New York: Knopf, 2000.
Calloway, Colin. *The Scratch of a Pen: 1763 and the Transformation of North America*. New York: Oxford University Press, 2006.

Paris (1783), Treaty of

The Treaty of Paris (1783) ended the American Revolutionary War (1775–1783), attempted to resolve differences between Great Britain and the newly independent United States, and impacted the lives and territories of Native people.

British forces under General Charles Cornwallis surrendered at Yorktown, Virginia, in 1781, although a number of minor skirmishes continued during peace negotiations between Great Britain and Americans in Paris. In February of 1783, King George III formally ended military action when he issued his Proclamation of Cessation of Hostilities. The Treaty of Paris, also known as the Paris Peace Treaty, was signed on September 3, 1783. Great Britain also signed treaties around the same time with France, Spain, and the Netherlands.

John Adams, Benjamin Franklin, and John Jay comprised the American peace delegation. In April 1782 they rejected a British offer to provide the thirteen colonies with some autonomy, but not outright independence. The American negotiators were eventually able to secure crucial concessions, not the least of which was British recognition of American independence. The treaty provided for the release and exchange of prisoners of war from both sides and included an agreement that British loyalists would be able to secure any property they had left behind during the war and be able to collect lawful debts from American citizens. It stated the United States would recommend that the states return all confiscated land and property of loyalists and attempt to prevent any further confiscation. The two nations also agreed to share access to the Mississippi River, and Great Britain granted fishing rights to U.S. fishermen off Newfoundland and in the Gulf of Saint Lawrence.

The treaty did not protect the Native tribes that had remained neutral or allied with Great Britain in the war. An important provision of the settlement was the delineation of

the Mississippi River as the western boundary and the Great Lakes as the northern border of the United States. The treaty ignored the Indian tribes in these regions, and consequently the United States was required to find ways to extinguish the Indian title to these lands as the nation expanded. For the next few years, the United States attempted to dictate terms, including land cessions, to the affected tribes, provoking tension and conflict.

In the latter half of the 1780s, the United States moved to a more conciliatory policy for dealing with the Indian tribes by recognizing their autonomy and their right to occupy their lands. The George Washington administration endeavored to purchase Indian lands through the process of diplomatic treaties, a decision that helped reduce, but not eliminate, the conflicts. Over the next several decades, federal negotiators signed dozens of treaties with Indian tribes to open up western territory to American settlement. By 1843 almost all of the major tribes that had resided in the area had been removed west of the Mississippi. In cases when negotiation did not work, the United States used pressure, coercion, trickery, and military force to secure land from the Indian nations living in the region.

After the Treaty of Paris was ratified by Congress in January 1784, ambiguities in the agreement and the failure to ensure strict adherence to its provisions ensured that relations between the United States and Great Britain remained strained for the next two decades. For example, individual states ignored the mandate to restore loyalist property and the provision that required states to allow British creditors to collect legal debts. And in the Great Lakes area, the British continued to occupy forts and trade with Indians, although the treaty called for them to relinquish control of the area with “all convenient speed.” British troops and other agents remained in the region in part to stir up unrest among the Indians. While the right to collect debts or secure confiscated property was settled by lengthy litigation or later negotiations (such as Jay's Treaty), the British practice of promoting turmoil on the American frontier helped lead to the War of 1812 (1812–1814).

See also *American Revolutionary War (1775–1783)*; *Great Britain, Indian Policy of*; *Jay's Treaty*; *War of 1812 (1812–1814)*.

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BIBLIOGRAPHY

Middlekauff, Robert. *The Glorious Cause: The American Revolution, 1763–1789*. New York: Oxford University Press, 2007.

- Mohr, Walter H. *Federal Indian Relations, 1774–1778*. Philadelphia: University of Pennsylvania Press, 1933.
- White, Richard. *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815*. New York: Cambridge University Press, 1991.
- Wood, Gordon S. *The American Revolution: A History*. New York: Modern Library, 2003.
- . *The Creation of the American Republic, 1776–1787*. Chapel Hill: University of North Carolina Press, 1998.

Parker, Ely S.

Ely S. Parker (1828–1895) was a Seneca born on the Tonawanda reservation in western New York. As a youth he served as anthropologist Lewis Henry Morgan's first informant and assisted in the creation of *The League of the Ho-de-no-sau-nee or Iroquois*, which is considered one of the founding studies of American anthropology. Parker led a distinguished career as a statesman on behalf of his Tonawanda community. In 1844 he served as an interpreter in the tribe's legal battle against the Ogden Land Company. Even though he was only sixteen years old at the time, Seneca elders recognized Parker's talents and employed him through the 1850s. As he grew older, Parker took an active role in his community, and in 1851 they named him one of the sachems of the Iroquois Confederacy (the Mohawks, Oneidas, Onondagas, Tuscaroras, Cayugas, and Senecas).

Parker was trained as an engineer and served as General Ulysses S. Grant's secretary during the Civil War (1861–1865), during which Parker had the opportunity to demonstrate his skills as an advisor to both General Grant and President Abraham Lincoln. He was so trusted by Grant that he was entrusted to write the surrender conditions for the Confederacy at Appomattox. By the end of the war, Parker had risen to the rank of brigadier general.

In 1865 Parker served on a commission charged with addressing the ex-Confederate southern Indian communities, and he convinced policy makers that it was important to incorporate Native opinions. In 1866 the Office of Indian Affairs (OIA) employed Parker to help negotiate treaties with other southern Indian groups, and later that year he began to serve as a personal advisor to General Grant on Indian matters as they related to military affairs. Parker's accomplishments in the 1860s resulted in his appointment as the first Native commissioner of the OIA in 1869.

Although his tenure in the OIA was short, Parker's reform agenda proved quite significant in the history of Indian policy. He sought to establish two oversight committees, one to monitor OIA finances and ensure that the gov-

ernment fulfilled treaty obligations, and another comprised of Natives and non-Natives to serve as a liaison to tribal leaders. Parker fought to secure land titles to maintain tribal communities, protect the tribes from the plundering of their natural resources, and to increase expenditures for education and agricultural development. Finally, he worked to retransfer the OIA from the Interior Department back to the War Department in an effort to combat the dishonesty that characterized civilian leadership with the well-developed military bureaucracy. To further help eliminate corruption, Parker hired Indian agents recommended by the Quakers and other Christian denominations.

Parker faced criticism from several parties, and these challenges greatly hindered his reform efforts. Religious leaders, whose influence grew under the Peace Policy, sought to undermine his authority. Similarly, the Board of Indian Commissioners, which Parker had established to review Indian policy, fought political battles against him and the secretary of the interior to expand its role in federal policy making. However, the greatest challenge came from Episcopalian philanthropist William Welsh, who in 1870 charged Parker with fraud in the purchase of goods for Indian reservations. The House of Representatives investigation exonerated Parker, but he believed that the OIA no longer held the power necessary to implement just Indian policy, and in 1871 he submitted his resignation to President Grant.

The reform agenda Parker implemented on the federal level was a significant break with previous Indian policy and a forerunner to larger trends in social policy making. By applying public oversight by concerned citizens of policy administration, Parker initiated techniques that rose to prominence in the efforts of social reformers in the Progressive era. In his assertion that one of the most important responsibilities of the OIA was to provide supplies, goods, and education to Native peoples, and with his belief that rather than breaking up tribal groups, the OIA should maintain Indian community coherence, he applied a framework that would be used by later reformers who worked among urban immigrants. Perhaps most important, by working for the retransfer of the OIA to the War Department, Parker started a movement that, though unsuccessful initially, would result in the increasing bureaucratization of Indian affairs that culminated in the passage of the General Allotment (Dawes) Act of 1887.

After leaving the OIA, Parker won and lost a fortune in the stock market and worked as a buildings superintendent

for the New York City Police Department. Later in life Parker struggled with diabetes, suffered a series of strokes, and died in 1895.

See also *Board of Indian Commissioners; Bureau of Indian Affairs (BLA); General Allotment Act (Dawes Act) of 1887; Grant, Ulysses S.; Lincoln, Abraham; Morgan, Thomas J.; Welsh, William.*

Joseph Genetin-Pilawa

BIBLIOGRAPHY

- Armstrong, William. *Warrior in Two Camps: Ely Parker, Union General and Seneca Chief*. Syracuse, N.Y.: Syracuse University Press, 1978.
- Deloria, Philip. *Playing Indian*. New Haven, Conn.: Yale University Press, 1998.
- Keller, Robert H., Jr. *American Protestantism and United States Indian Policy, 1869–1882*. Lincoln: University of Nebraska Press, 1983.
- Konkle, Maureen. *Writing Indian Nations: Native Intellectuals and the Politics of Historiography, 1827–1863*. Chapel Hill: University of North Carolina Press, 2004.
- Parker, Arthur C. *The Life of General Ely S. Parker: Last Grand Sachem of the Iroquois and General Grant's Military Secretary*. Buffalo, N.Y.: Buffalo Historical Society, 1919.

Parker, Quanah

Quanah Parker (c. 1849–1911) was a Comanche war leader and chief. Raised by his father, Peta Nocona, chief of the Quahada tribe, and his mother, Naudah, Quanah (meaning “fragrant”) grew up in the territory known as the Comanchería, an area encompassing much of present-day Texas, western Oklahoma and Kansas, and south-central Colorado. It was not until Texas Rangers abducted her in 1860 that Quanah learned his mother’s true identity; she was Cynthia Ann Parker, a white woman captured as a child when the Comanche raided Fort Parker, Texas, in 1836. Parker chose to emphasize his Comanche identity and aspired to be a fierce warrior. In spite of his mixed heritage—or perhaps because of it—he became the last great Comanche chief recognized by both his people and the U.S. government.

As Parker grew into manhood, the United States was expanding as a nation and increasingly encroaching on Native American territory, forcing most tribes onto reservations. The Treaty of Medicine Lodge (October 21, 1867) was an attempt by the U.S. government to move the Comanches onto a reservation. Parker disagreed with the treaty and led the Quahada Comanches in numerous raids against white settlers and buffalo hunters. The U.S. government dispatched army troops to the territory in an effort to quell widespread Indian resistance. Colonel Ranald Slidell Mackenzie, com-

manding officer of the 4th Cavalry, led his troops in a lengthy pursuit of Quanah’s band from 1871–1875. After years of evasion, Parker finally surrendered to Mackenzie in June 1875. As a warrior, Parker preferred continued resistance, but he did not think it wise to put the women and children of his tribe through further hardship.

After his surrender, Parker served as an intermediary between the U.S. government and his people. He cooperated with government authorities and encouraged his people to assimilate into white culture by learning English, sending their children to reservation schools, and taking up farming and ranching. Parker himself adopted his mother’s maiden name, becoming Quanah Parker, yet he continued to practice polygamy, helped found the Peyote religion and the Native American Church, and refused to cut his hair. He negotiated grazing agreements on reservation lands with local cattle ranchers (1882), served as a judge on the Court of Indian Offenses (1886–1901), and signed the Jerome Agreement (1892) accepting land allotment and the subdividing of reservation land for white settlement. However, he later joined the Indian Rights Association in lobbying against ratification of the Jerome Agreement, claiming, along with other Comanche, Apache, and Kiowa leaders, that they had signed under coercion from the Cherokee Commission.

A well-respected leader and businessman, Parker entertained numerous elite merchants and dignitaries in his home, including President Theodore Roosevelt. Texans named a Hardeman County town after Parker in 1884. Enthralled with the possibilities of transportation technology, he invested \$40,000 in the Quanah, Acme, and Pacific Railway Company in 1909. When the “last Comanche chief” passed away at his home on February 23, 1911, his life thoroughly reflected a blending of the old world and the modern.

See also *Assimilation and Acculturation; Courts of Indian Offenses; Medicine Lodge Creek (1867); Treaty of; Native American Church; Westward Migration.*

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BIBLIOGRAPHY

- Carlson, Paul H. *The Plains Indians*. College Station: Texas A&M University Press, 1998.
- Hagan, William T. *Quanah Parker, Comanche Chief*. Norman: University of Oklahoma Press, 1993.
- Neely, Bill. *The Last Comanche Chief: The Life and Times of Quanah Parker*. New York: John Wiley & Sons, Inc., 1995.

Parks and Monuments

See *National Parks and Monuments*.

Passamaquoddy Tribe v. Morton (1975)

Passamaquoddy Tribe v. Morton (1st Cir. 1975) arose out of a legal dispute between the Passamaquoddy tribe and the state of Maine. The tribe asked the federal government to sue Maine on the tribe's behalf, alleging that Maine had, among other things, wrongfully divested the tribe of most of its lands in a 1794 treaty between the state and the tribe. The federal government declined to sue, stating that the Passamaquoddy tribe was not a federally recognized tribe to which the government owed any trust duties, and therefore the Nonintercourse Act (Trade and Intercourse Acts), which prohibits the transfer of Indian lands without federal consent, did not apply. The tribe then sued Secretary of the Interior Rogers C. B. Morton, arguing that the Nonintercourse Act did apply to the tribe.

The Nonintercourse Act provides that land transactions with "any Indian nation or tribe of Indians" are valid only if approved by the federal government. Passamaquoddy legal counsel Thomas Tureen argued that the Nonintercourse Act extended full tribal status to all Indian tribes, regardless of whether a tribe was federally recognized. The United States countered that the Nonintercourse Act pertained only to federally recognized tribes. On January 20, 1975, federal district judge Edward Gignoux ruled for the plaintiffs, a verdict upheld on appeal by the U.S. Court of Appeals for the First Circuit. The First Circuit ruled that because the purpose of the Nonintercourse Act was "to prevent the unfair, improvident, or improper disposition of Indian lands," the act should apply to all Indian tribes, including the Passamaquoddy.

Although the First Circuit made no ruling on the Passamaquoddy's land claim against Maine, subsequent litigation yielded a settlement by which the plaintiffs received \$81 million and authorization to purchase one-third of the land that had been acquired by the state. The outcome was a decisive victory for the Passamaquoddy tribe and inspired similar land claims suits by other eastern tribes, such as the Mashpee of Massachusetts.

See also *Congress, U.S.; Land Claims Settlement Acts; Trade and Intercourse Acts; Trust Lands*.

Liam Paskvan

BIBLIOGRAPHY

Nonintercourse Act, 10th Cong., 2nd sess. (March 1, 1809).
Passamaquoddy Tribe v. Morton, 528 F.2d 370 (1st Cir. 1975).

Peacemaker Courts

Peacemaker Courts are courts based on traditional Native principles that seek to restore harmony to the community through a process whereby the parties to a dispute agree to a plan for restitution and reconciliation. This model offers an alternative to Western-style courts, which generally focus on assigning blame for wrongdoing.

Peacemaker courts are led by a community member who is respected for his or her wisdom and who acts more like a moderator or facilitator than a judge. Often meetings begin with a prayer to add solemnity to the proceeding and to put participants in the proper frame of mind. After the prayer both the aggrieved party and the offending party are allowed to speak. The focus of peacemaker courts is to restore a sense of balance to the relationship between the two parties involved and the community as a whole. As such, members of the families of both parties are generally allowed to participate. When all interested persons have had a chance to talk, the leader of the proceeding helps the parties come to a decision for restitution and reconciliation.

Peacemaker courts require a willingness from all parties to engage in the process. If either the aggrieved party or the offending party does not want to participate, or if a party is unwilling or unable to fulfill her or his duties toward reconciliation, the dispute is transferred to a Western-style court.

See also *Law Enforcement in Indian Country; Tribal Courts*.

Keith Richotte Jr.

BIBLIOGRAPHY

Metoui, Jessica. "Returning to the Circle: The Reemergence of Traditional Dispute Resolution in Native American Communities." *Journal of Dispute Resolution*, vol. 2007, no. 2 (2007): 517–540.

Ptacin, John M., Jeremy Worley, and Keith Richotte. "The Bethel Therapeutic Court: A Study of How Therapeutic Courts Align With Yup'ik and Community Based Notions of Justice." *American Indian Law Review*, vol. 30, no. 1 (2005): 133–150.

Yazzie, Robert. "'Life Comes From It': Navajo Justice Concepts." *New Mexico Law Review*, vol. 24, no. 2 (1994): 175–190.

Zion, James W., and Robert Yazzie. "Indigenous Law in North America in the Wake of Conquest." *Boston College International and Comparative Law Review*, vol. 20, no. 1 (1997): 55–84.

Peace Medals

England, France, Spain, and the United States distributed peace medals to seek favor and establish relations with Indian tribes. Peace medals were silver, bronze, or copper medallions with profiles of a king or president on one side and a scene or national emblem on the other. President George Washington's secretary of war, Henry Knox, advised Congress to emulate the tradition of the European imperial powers and adopt the practice of giving medals to Indian leaders. Consequently, presidential medals were created for George Washington in 1789 and delivered until the administration of Benjamin Harrison in 1893. These tokens were often provided to Indian leaders at the conclusion of a treaty, upon their visit to the U.S. capital, or after a visit to a tribe by a federal official.

One of the most concentrated uses of peace medals by the American government was during the Lewis and Clark expedition in 1804–1806. Meriwether Lewis and William Clark distributed up to eighty-seven George Washington and Thomas Jefferson medals. They considered these medals to be important emblems of peace. Acceptance of the medals supposedly demonstrated that the receiving Indians were American subjects who acknowledged the establishment of peaceful relations with the United States. Lewis and Clark required Indians to discard medals they had received from other countries.

In 1829 Secretary of War Lewis Cass and William Clark, superintendent of Indian affairs for the Saint Louis region, devised regulations for the distribution of peace medals: they were to be given only to people of influence, the authority of the Indian leader would determine the size of the medal they received, they would be presented with formalities designed to impress the Indians, they would not be used to confer authority on a particular individual, and the recipient had to replace any medal from another nation with the American token.

See also *Lewis and Clark Expedition; Treaty Making: Protocols.*

Robert J. Miller

BIBLIOGRAPHY

- Jackson, Donald, ed. *Letters of the Lewis and Clark Expedition with Related Documents 1783–1854*. 2nd ed. Urbana: University of Illinois Press, 1978.
- Miller, Robert J. *Native America, Discovered and Conquered: Thomas Jefferson, Lewis and Clark, and Manifest Destiny*. Westport, Conn., and London: Praeger Publishers, 2006.

Prucha, Francis Paul. *Indian Peace Medals in American History*. Lincoln: University of Nebraska Press, 1971.

Peace Policy

See *Grant, Ulysses S.; Indian Peace Commission; U.S. Indian Policy: Congress and the Executive, 1845–1877.*

Peltier, Leonard

Leonard James Peltier (1944–) is an Anishinabe/Lakota writer, artist, and outspoken social justice activist whose controversial trial and imprisonment attracted international attention. Peltier first became politically active while living on the Turtle Mountain reservation in North Dakota. In 1970 he joined the American Indian Movement (AIM). He soon rose to a leadership position and assumed a spiritual role. Over the years he participated in many protests, including the 1972 Trail of Broken Treaties caravan to Washington, D.C. His objective was to highlight the injustices suffered by Native peoples.

AIM and other Indian activists occupied Wounded Knee on the Pine Ridge reservation in South Dakota for seventy-two days in 1973. AIM remained active on the reservation afterward. Throughout this period, the Federal Bureau of Investigation (FBI) harassed and tried to infiltrate and disrupt AIM. Two FBI agents entered their camp at Pine Ridge in June 1975, allegedly in pursuit of a suspect. The agents and an AIM member were killed in the ensuing shoot-out. Four people were arraigned on murder charges over the agents' deaths but only Peltier was convicted. He received two life sentences. No charges were brought in the death of the AIM member.

Peltier maintains his innocence. Despite publicized irregularities in the trial, he has been denied parole and clemency. Many people, including members of Amnesty International, consider him a political prisoner.

See also *American Indian Movement (AIM); Trail of Broken Treaties; Wounded Knee (1973), Occupation of.*

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BIBLIOGRAPHY

- Matthiessen, Peter. *In the Spirit of Crazy Horse*. New York: Viking Press, 1983.
- Messerschmidt, Jim. *The Trial of Leonard Peltier*. Boston, Mass.: South End Press, 1989.
- Peltier, Leonard. *My Life Is My Sundance*. Edited by Harvey Arden. New York: St. Martin's Press, 1999.

Vander Wall, Jim. "A Warrior Caged: The Continuing Struggle of Leonard Peltier." In *The State of Native America: Genocide, Colonization and Resistance*, edited by M. Annette Jaimes, 291–310. Boston, Mass.: South End Press.

Pennsylvania, Indian Policy of

William Penn's Quaker legacy shaped Indian policy in the colony of Pennsylvania prior to 1737. Penn's diplomatic strategies focused on the colony's relationship with the Lenapes (Delawares), the largest stakeholders in the region. Penn established the colony of Pennsylvania in 1682 with a desire to create a religious refuge based on tolerance, an ideal government, and a successful business enterprise. The Lenapes on the lower Delaware responded to Penn's arrival as they had always responded to the arrival of outsiders: with caution and diplomacy. Penn came with a clear, coordinated, and comprehensive plan for his colony and intended to procure legal title to Indian lands through treaties and purchases rather than conquests. Penn sought to avoid conflict and hostilities through extended negotiations, gift-giving, and shared sovereignty with the Indians.

Penn envisioned a colony where Indians and Europeans would live peaceably but separately under the sovereignty of the English crown and the colony's proprietor. Indians would live in reserved enclaves, referred to as Indian manors, under Penn's feudal land management system. Although well intended, the plan, when put into place, effectively undermined the sovereignty of the tribes and destroyed their ability to maintain their traditional hunting, farming, and trade economies. No matter how fair and benevolent Penn thought these policies were, the manors doomed Indians to the society's economic margins.

By 1718 the colony had acquired all of the land between the Delaware and Susquehanna rivers by purchasing the Lenapes' use rights, as opposed to fee title claims defined by specific geographic boundaries. Because the boundaries of these first purchases were ambiguous, a capstone deed was negotiated in September 1718 to finalize and record the exact boundary lines of the land in question. After Penn's death, his heirs and agents continued to purchase lands for the colony, but rapid expansion of Scots-Irish settlers into the Pennsylvania backcountry undermined Penn's pacifist ideals, which were eventually dismissed by the colonial authorities.

In 1737 Provincial Secretary James Logan, a Penn appointee, presented Lenape leaders with a forged treaty claiming the colony's rights to vast tracts of land. The

Lenapes' leaders honored the forged treaty, known as the Walking Purchase, and agreed to cede those lands that could be walked by a single man in a day and a half. Logan hired three men to run at top speed along a prepared path. As a result, the Penn family acquired 1.2 million acres (486,000 hectares) of land, an area roughly equivalent to the size of the state of Rhode Island. The swindled Lenape leaders fought for two decades to have the Walking Purchase annulled, but without success.

Additional factors contributed to the extension of the colony's control over its Indian neighbors. Limited data suggest that the Lenapes experienced a series of devastating epidemics that resulted in the loss of over two-thirds of their total population; the European population, in contrast, exploded after 1681, to over one hundred thousand by 1750. As a result, the Lenapes by this time accounted for just 2 percent of the total southeastern Pennsylvania population. Not surprisingly, they found themselves increasingly marginalized.

After the Walking Purchase, Pennsylvania's leaders turned their attention to working with the Iroquois confederacy, which Logan recognized as the dominant indigenous political entity. This exclusive relationship strengthened Iroquois power in the colony and undermined the historic relationship between the Pennsylvania provincial government and the Lenapes, while binding the Iroquois allies to English concerns against the growing French threat. Logan's policy continued to shape the colony's diplomatic relationships with the Iroquois and other tribes in the colony after his death in 1751.

In 1758 the Pennsylvania assembly enacted an Indian trade act to regulate unscrupulous traders who were antagonizing their Native customers. The act designated special commissioners to oversee the trade and set up a government monopoly, with three trading posts, to conduct trade in the western portion of the colony. The act also prohibited the sale of alcohol to Indians, but this proved generally unsuccessful.

The outbreak of the French and Indian War (1754–1763) seriously impaired Pennsylvania's Indian policy. The colonial government continued to strengthen the Iroquois position in the colony, believing the Iroquois were capable of exerting control over the other tribes within the region. A series of final land deals with the Iroquois Confederacy met with vigorous protests from the Delawares, Shawnees, Wyandots, and Senecas living in western Pennsylvania who were excluded from these treaties. The Lenapes, now more often called the Delawares, responded by seeking out alliances with the Shawnees and accepting a tangential relationship

with the French, resulting in increased violence between the Delawares and Pennsylvania settlers.

In the decades before the American Revolution, little remained of colonial Pennsylvania's original Indian policies. William Penn's vision of peaceful diplomacy vanished in the face of European settlers' inexorable land acquisitions.

See also *Great Britain, Indian Policy of; Treaties: Historical Overview.*

Dawn G. Marsh

BIBLIOGRAPHY

- Pencak, William A., and Daniel K. Richter. *Friends and Enemies in Penn's Woods: Indians, Colonists and the Racial Construction of Pennsylvania*. University Park: Pennsylvania State University Press, 2004.
- Riggs, Dawn Marsh. "Hiding in Plain Sight: Hannah Freeman, a Lenapes Woman in William Penn's Peaceable Kingdom." PhD diss., University of California, Riverside, 2003.
- Wallace, Paul A.W. *Indians in Pennsylvania*. Harrisburg: The Pennsylvania Historical and Museum Commission, 1993.
- Weslager, C. A. *The Delaware Indians: A History*. New Brunswick, N.J.: Rutgers University Press, 1972.

Peyote

See Employment Division v. Smith (1990); *Native American Church*.

Phillips, Wendell

Indian rights activist Wendell Phillips (1811–1884) came from a wealthy, devout New England family. He studied law at Harvard and became a leader in the antislavery movement in 1837 when he delivered a speech at Boston's Faneuil Hall commemorating the death of Elijah Lovejoy, the first white martyr of the radical abolitionist cause. Phillips later served briefly as president of the American Antislavery Society, the most radical antislavery organization in the country. He also supported the women's rights movement.

Phillips was also an advocate of Indian sovereignty. In his eyes, the racial injustices committed against Indians were similar to those faced by African Americans. After the Civil War (1861–1865), Phillips lobbied President Andrew Johnson and his administration to extend the benefits of the Fourteenth and Fifteenth amendments to American Indians. He also urged Johnson to create a cabinet position to deal with Indian issues. With the help of fellow Indian rights activist Helen Hunt Jackson, author of *A Century of Dishonor* and *Ramona*, Phillips established the Massachusetts Indian Commission.

After the Battle of Little Bighorn (June 25, 1876), in which George Armstrong Custer and the Seventh Cavalry were annihilated by a large Lakota and Cheyenne force, American hatred against Natives deepened. Undeterred, Phillips continued to campaign for Native rights. He also argued against the government's removal of the Modocs and supported Standing Bear in his opposition to the relocation of the Poncas.

Phillips's long career fighting racial, gender, and ethnic bigotry ended when he died of a heart attack in Boston on February 2, 1884.

See also *Citizenship: United States and State; Jackson, Helen Hunt; Little Bighorn (1876), Battle of; Modoc War (1872–1873); Standing Bear.*

Ryan McIlhenny

BIBLIOGRAPHY

- Mardock, Robert Winston. *The Reformers and the American Indian*. Columbia: University of Missouri, 1971.
- Steward, James. *Wendell Phillips: Liberty's Hero*. Baton Rouge: Louisiana State University Press, 1986.

Piegan Massacre (1870)

This savage attack on a Piegan or Blackfoot village on January 23, 1870, revealed the character of fighting on the western frontier and ended congressional consideration of a plan to transfer Indian affairs from the Department of the Interior to the War Department. The U.S. Army began planning an attack on the Piegans in the fall of 1869 in response to reported assaults on settlers that were attributed, not always correctly, to the Piegans. The commander of that force, Maj. Eugene Baker, reportedly was instructed to "strike them hard" (Robert J. Ege, "*Tell Baker to Strike Them Hard*": *Incident on the Marias, 23 Jan. 1870*, 1970).

Although the precise events remain the subject of debate, researchers agree that Baker attacked the wrong village, and 173 Native Americans died as a result of what is generally considered a massacre. Survivors suffered greatly because of the extreme cold. Despite criticism of Baker, even from within the army, Generals Philip H. Sheridan and William T. Sherman defended the engagement. Nevertheless, the brutality of the episode undermined the army's determination to wrest control of Indian affairs from the Department of the Interior.

See also *Bureau of Indian Affairs; Sheridan, Philip; Sherman, William T.*

Benjamin R. Beede

BIBLIOGRAPHY

- Ege, Robert J. "Tell Baker to Strike Them Hard": *Incident on the Marias*, 23 Jan. 1870. Bellevue, Neb.: Old Army Press, 1970.
- Ewers, John Canfield. *The Blackfeet: Raiders on the Northwestern Plains*. Norman: University of Oklahoma Press, 1971.

Pierce, Maris Bryant

Indian rights activist Maris Bryant Pierce (1811–1874) was a Seneca who was born on the Allegany reservation but grew up at Buffalo Creek to the north. As a young boy, Pierce attended the Quaker mission school at Tunessassa and then continued his education at academies throughout New York. After he converted to Presbyterianism in Rochester, the Society for Promoting Christian Knowledge sponsored Pierce's admission to Dartmouth College in 1836.

While at Dartmouth Pierce contested the legality of the 1838 Buffalo Creek Treaty, asserting that United States commissioners had coerced a minority of Seneca chiefs to agree to cede the lands of the entire tribe and remove to Kansas. In August Pierce addressed a white audience at the Baptist Church in Buffalo, where he criticized the federal policy of forcing Indians to abandon lands that they rightfully owned. Pierce subsequently spoke to church congregations and civic organizations throughout New England and New York in order to raise public awareness of the Seneca Indians' plight. He also traveled on behalf of the tribe to Washington, D.C., where he presented petitions to Congress and to President Martin Van Buren.

These efforts helped convince the United States to renegotiate the Buffalo Creek Treaty in 1842. The government restored reservations at Cattaraugus and Allegany to the Seneca, but it insisted on retaining lands at Buffalo Creek. As a result, Pierce and his wife, Mary Jane Carroll, were forced to move to Cattaraugus in 1845. After the Seneca adopted a new constitution in 1848, Pierce served as a secretary for the Old Chiefs Party.

See also *Removal; Seneca Land Rights*.

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BIBLIOGRAPHY

- Abler, Thomas S., and Elisabeth Tooker. "Seneca." In *Handbook of North American Indians: Northeast*, Vol. 15, series edited by William C. Sturtevant and volume edited by Bruce G. Trigger, 505–517. Washington, D.C.: Smithsonian Institution, 1978.
- Hauptman, Laurence M. *Conspiracy of Interests: Iroquois Dispossession and the Rise of New York State*. Syracuse, N.Y.: Syracuse University Press, 1999.

Pierce, M. B. "Address on the Present Condition and Prospects of the Aboriginal Inhabitants of North America, with Particular Reference to the Seneca Nation," 1839, www.canadiana.org/ECO/PageView/28502/0003?id=491cc562a11c3d96.

Vernon, H. A. "Maris Bryant Pierce: The Making of a Seneca Leader." In *Indian Lives: Essays on Nineteenth- and Twentieth-Century Native American Leaders*, edited by L. G. Moses and Raymond Wilson, 19–42. Albuquerque: University of New Mexico Press, 1985.

Pike, Zebulon

Soldier and explorer Zebulon Pike (1779–1813) was born in Lambertton, New Jersey, in 1779. He served under Anthony Wayne in the war against the Northwest Indian confederacy (1790–1794) and was stationed at federal outposts on the western frontier. As an officer in the U.S. Army, Pike led two important early expeditions into the frontier. In 1805 he led twenty men on a voyage to discover the source of the Mississippi River. During the trip he met with a number of Sioux Indians near present-day Minneapolis-St. Paul and negotiated the purchase of over 150,000 acres of their land for a price of \$200,000. The Sioux apparently agreed, but were eventually paid only \$2,000. Pike also negotiated a treaty with the Sac Indians.

Pike's second expedition four months later explored the southern portion of the Louisiana Territory, near the border between the United States and the Spanish territory. Pike's report that the southern Plains were unsuitable for farming led to the area being referred to as the Great American Desert, a development that delayed settlement into the lands of the Plains tribes for some time.

Early in 1807 Pike and his men were arrested as spies by soldiers in Spanish territory and taken to Chihuahua, in present-day Mexico, before being released. During their captivity, they became the first men from the United States to observe Pueblo and Apache people. Pike was killed at the Battle of York during the War of 1812 (1812–1814). He is perhaps best remembered for having discovered the Colorado mountain, Pike's Peak, that bears his name.

See also *Jefferson, Thomas; Louisiana Purchase; War of 1812 (1812–1814)*.

Alan Boye

BIBLIOGRAPHY

- Boye, Alan. *Tales from the Journey of the Dead*. Lincoln: University of Nebraska, 2006.
- Coues, Elliot, ed. *The Expeditions of Zebulon Montgomery Pike in Two Volumes*. New York: Dover, 1987.
- Hollon, W. Eugene. *The Lost Pathfinder: Zebulon Montgomery Pike*. Norman: University of Oklahoma Press, 1949.

Pitchlynn, Peter Perkins

Peter Perkins Pitchlynn (1806–1881), whose Choctaw name was Hat-choo-tuck-nee (“The Snapping Turtle”), was a prominent chief of the Choctaw nation and a highly influential and long-time treaty negotiator.

Pitchlynn was born in Hushookwa, Mississippi, to a white father and a Choctaw mother. A gifted orator educated in both white and Choctaw ways, Pitchlynn from an early age served as a powerful liaison between the Choctaws and the United States. In 1824 he was elected to the Choctaw National Council and served on a Choctaw delegation to Washington that protested encroachments by American settlers.

Pitchlynn advocated an end to polygamy among the Choctaws; was instrumental in closing shops that sold liquor to them; and promoted the establishment of five schools, including the Choctaw Academy for Children. Pitchlynn initially opposed the removal of the Choctaws but resolved to get the best deal he could for his people when he came to believe that relocation was inevitable. In 1828 he served on a committee that selected lands for the relocation of the Choctaws. He also negotiated peace with the Osages in preparation of the Choctaws’ arrival in the West and signed the Treaty of Dancing Rabbit Creek (1830), formalizing the Choctaws’ removal. Once in the Indian Territory, Pitchlynn helped restore the Choctaw Nation to normalcy by working to reorganize the tribal government and by building new schools for Choctaw children. He often traveled to Washington to lobby on behalf of his people.

Pitchlynn was elected principal chief in 1864 and served in that capacity until 1866. During the American Civil War (1861–1865) he advocated Choctaw neutrality, although three of his sons fought for the Confederacy. After leaving office as chief, he returned to Washington to continue land claims negotiations on behalf of the Choctaws. He died in Washington in 1881 and is buried in the Congressional Cemetery.

See also *Alcohol; Civil War (1861–1865); Diplomatic Delegations, Tribal; Removal.*

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BIBLIOGRAPHY

- Baird, W. David. *Peter Pitchlynn: Chief of the Choctaws*. Norman: University of Oklahoma Press, 1972.
- Cushman, H. B., and Angie Debo, eds. *History of the Choctaw, Chickasaw, and Natchez Indians*. Norman: University of Oklahoma Press, 1999.

Debo, Angie. *The Rise and Fall of the Choctaw Republic*. Norman: University of Oklahoma Press, 1961.

Plenary Power Doctrine

According to settled federal law, Congress enjoys plenary power over Indian affairs in accordance with its authority under the Indian Commerce Clause of Article I, section 8, of the Constitution, Indian treaties, and other sources of federal power. The meaning of federal “plenary power,” however, has changed over the history of federal-tribal relationships. For example, in the early 1800s Chief Justice of the United States John Marshall found that federal power to regulate Indian affairs was plenary in the sense of preempting state power. Thus in *Worcester v. Georgia* (1832) the Supreme Court held that the laws of Georgia had no effect in tribal territories.

By the late nineteenth century, the federal government was exercising plenary power in Indian affairs that was virtually absolute. In cases such as *United States v. Kagama* (1886) and *Lone Wolf v. Hitchcock* (1903), the Supreme Court held that Congress’s actions were political questions that were not subject to judicial review. Under this view of plenary power, Congress could unilaterally abrogate Indian treaty rights, terminate Indian property rights without just compensation, and subject individual Indians to federal laws. Aspects of this approach persisted well into the twentieth century, allowing Congress to terminate Indian tribes from federal recognition, expand state jurisdiction over Indians, and interject federal legal principles and American cultural values into Indian Country.

By the late twentieth century, the Supreme Court was locating federal plenary power squarely in the Indian Commerce Clause of the Constitution, which gives Congress the power to regulate commerce with foreign nations, among the states, and with Indian tribes. The power is no longer considered a political question, and the federal courts review congressional actions toward Indians and Indian tribes to ensure that Congress is acting according to the Constitution. In addition, although Congress may still unilaterally abrogate Indian treaties, the courts require that Congress make its intent to do so clear.

In modern times, federal plenary power has also been used to enact beneficial legislation such as the Indian Child Welfare Act (1978). Moreover, Congress has authorized the executive branch to recognize Indian tribes as sovereign. Plenary power is thus both a boon and a bane for Indian tribes.

Recently, the source of plenary power has come under scrutiny from both legal commentators and the Supreme Court. Some legal commentators now suggest that plenary power is inconsistent with modern recognition of tribal self-determination and should be significantly limited.

See also *Indian Child Welfare Act* (1878); *Indian Commerce Clause*; *Indian Country*; *Lone Wolf v. Hitchcock* (1903); *Marshall, John*; *Sovereignty*; *Treaty Abrogation*; *United States v. Kagama* (1886); *Worcester v. Georgia* (1832).

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BIBLIOGRAPHY

- Clinton, Robert N. "There Is No Supremacy Clause for Indian Tribes." *Arizona State Law Journal* 34 (Spring 2002): 113–260.
- Lone Wolf v. Hitchcock*, 187 U.S. 553 (1903).
- Newton, Nell Jessup. "Federal Power over Indians: Its Sources, Scope, and Limitations." *University of Pennsylvania Law Review* 132 (January 1984): 195–288.
- United States v. Kagama*, 118 U.S. 375 (1885).
- Williams, Robert A., Jr. "The Algebra of Federal Indian Law: The Hard Trail of Decolonizing and Americanizing the White Man's Indian Jurisprudence." *Wisconsin Law Review* 1986 (1986): 219–299.
- Worcester v. Georgia*, 31 U.S. 515 (1832).

Plenty Coups

Plenty Coups (c. 1848–1932), a member of the Sore Lips Clan of the Mountain Crows, first built his reputation as a warrior. He fought alongside Gen. George Crook in 1876 against the Sioux and Cheyennes. Crow scouts appointed by Plenty Coups were with Lt. Col. George Armstrong Custer at the Battle of the Little Bighorn in 1876, and assisted with the pursuit of the Nez Percés in 1877.

In exchange for Crow service with the U.S. Army, the government established a reservation for them in Montana. Once Plenty Coups moved to the reservation, he encouraged his people to give up their traditional lifestyle and become farmers and ranchers. Plenty Coups was not only a prominent rancher himself, but also an advocate of education, believing that to remain self-sufficient, the Crow needed, like the whites, to educate themselves. Throughout his life, Plenty Coups looked to the interests of the Crow. He required railway companies building on Crow land to employ Crow workmen, and cattlemen using Crow pastureland had to share their profits.

When World War I (1914–1918) erupted, Plenty Coups urged the Crows to enlist in the U.S. military. After the war, Plenty Coups represented Native Americans at the dedica-

tion of the Tomb of the Unknown Soldier. In 1928 he gave forty acres for the establishment of a park and museum for the use of both the Crows and whites. When he died in 1932, the Crow people passed a resolution declaring that no other Crow leader would ever use the title "tribal chief."

See also *Crook, George*; *Little Bighorn* (1876), *Battle of*; *Nez Perce War*; *Ranching*; *Reservations*; *World War I, American Indians and*.

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BIBLIOGRAPHY

- Hoxie, Frederick E. *Parading through History: The Making of the Crow Nation in America, 1805–1935*. New York: Cambridge University Press, 1995.
- Linderman, Frank B. *Plenty Coups: Chief of the Crows*. 2nd ed. Lincoln: University of Nebraska Press, 2002.

Ponca Removal

In 1877 the Office of Indian Affairs (OIA) ordered the Ponca Tribe moved from its homeland at the juncture of the Niobrara and Missouri rivers in modern Nebraska to the Indian Territory. The government was pursuing its goal of relegating all Plains Indians in the West to a few select locations. Policy makers sought to rationalize supply networks by placing Lakota Sioux bands along the Missouri River. Under this directive, the Ponca reservation was selected for Spotted Tail's band, a placement that was justified by referencing the erroneous cession of the Ponca reservation to the Great Sioux reservation in the 1868 Fort Laramie Treaty. Federal negotiators, in their haste to end Red Cloud's War (1866–1868) and lack of knowledge about Ponca Country, had committed a gross error when they included the Ponca reservation within the boundaries of the Great Sioux Reserve. Although that cession violated Ponca treaties, federal leaders never corrected the mistake.

In January 1877 Commissioner of Indian Affairs John Q. Smith ordered Agent Edward C. Kemble to prepare the tribe for removal. Kemble held a series of councils with Ponca leaders to gain consent, as required by federal law. Ponca leaders, however, requested a meeting with President Rutherford B. Hayes, but Kemble refused to consider this, instead persuading the ten principal leaders to examine locales in the Indian Territory in early February. When a reservation site remained unselected, Kemble refused to take the Ponca leaders back to their homeland, forcing them to walk home over the course of the next month. During the leaders' absence, Kemble continued removal preparations.

On February 28, Acting Commissioner William Gilpin pressured Kemble to expedite the Poncas' removal. Kemble subsequently cut off all rations to the Indians and sent for soldiers from Fort Randall to quiet opposition. Resistance mounted after the return of the Poncas' leaders, resulting in the arrests of Standing Bear and his brother, Big Snake. Many non-Indians opposed removal, and while their protests caused the OIA to suspend removal efforts temporarily, Kemble persuaded his superiors to execute the removal even without explicit Ponca consent.

Kemble started south in mid-April with 170 Poncas. The main group, under Agent E. A. Howard, began their journey on May 16 with a military escort. The journey proved disastrous as poor weather and lack of food plagued the migrants. In Kansas, several Poncas were injured and a child killed as a result of a tornado. Nine of the Poncas perished before reaching the Quapaw reservation on July 9, 1877; among the casualties was Standing Bear's daughter, Prairie Flower.

The deaths continued after the Poncas' arrival at the reservation. In the summer of 1878 the Poncas moved to the juncture of the Arkansas and Salt Fork rivers (Ponca City area in Oklahoma), where they continued to languish. Indian Agent Howard was stunned by federal inaction; officials had made no preparations for the Poncas, and the tribe struggled with basic subsistence. By the end of 1879 about a quarter of the Ponca Tribe had perished. With deaths mounting and conditions deteriorating, many in the tribe, including a group led by Chief Standing Bear, decided to abandon the reservation and head for Nebraska and the Dakota Territory. Reformers such as Helen Hunt Jackson and Susette LaFlesche (Omaha) offered the plight of Standing Bear and his people as evidence of the federal government's wrongheaded policies.

See also *Fort Laramie (1868), Treaty of; Jackson, Helen Hunt; LaFlesche Family; Removal; Standing Bear.*

Scott Eugene White

BIBLIOGRAPHY

- Bourke, John Gregory. *Diary of John Gregory Bourke, 1872–1896*. Vol. 25, 37, and 38. Cleveland: Bell and Howell, 1967.
- Tibbles, Thomas Henry. *Standing Bear and the Ponca Chiefs*. 1905. Edited by Kay Graber. Lincoln: University of Nebraska Press, 1972. Reprint, Lincoln: Bison Books, 1995.

Pontiac's Rebellion (1763–1766)

Pontiac's Rebellion reflected the anger and disillusionment of the Native tribes of the Great Lakes region and the Ohio

valley following the British victory in the Seven Years' War (1756–1763). The French had treated the tribes with respect, trading with them fairly and engaging in proper diplomatic protocols such as gift-giving ceremonies. The British, in contrast, attempted to impose their will on the Indians and failed to accord them the appropriate diplomatic respect. Native dissatisfaction was manifested in physical and spiritual resistance.

The British victory in the French and Indian War (1754–1763) opened the floodgates to westward expansion. This, coupled with massive growth in British North America's white population—a 400 percent gain between 1700 and 1750 alone—put the Indians at an increasing disadvantage and subjected them to dubious practices that the British government proved either ineffective or uninterested in regulating. Tribes struggled to maintain their lands in the face of fraudulent deeds, corruption, and the nefarious practice of drawing tribes into debt that was then paid off through land sales.

The British North American governor-general, Jeffrey Amherst, put an end to the gift-giving ceremonies that had marked diplomatic relations in the past; in so doing, he effectively restricted the supply of blankets, tools, alcohol, and weapons on which many of the tribes had come to depend. British disregard for Native interests fostered resentment, as did government officials who increasingly dealt with “client” chiefs, overlooking the actual leaders of tribes and communities. British efforts to elevate individuals who would be more willing to work with them created factionalism within the tribal communities, as did missionary conversions of some Natives to Christianity.

As resentment against the British grew, Neolin, the Delaware Prophet, emerged with a message to reject contact with whites. His call was adopted by the Ottawa chief, Pontiac (c. 1720–1769). Pontiac's claims that the British sought Indian land and treated Indians discourteously proved popular among the nearby tribes. When rumors spread that the British might seek to enslave Indians, Pontiac called for unification of the tribes in the region to drive the British out of their territory.

On May 7, 1763, Pontiac led a group of warriors that laid siege to Fort Detroit. The siege lasted more than five months. At its peak in July a force of some nine hundred Indians surrounded the fort and defeated a group of British reinforcements at the Battle of Bloody Run. Indian forces also attacked Fort Pitt and raided white settlements in Pennsylvania. During this time Amherst ordered that small-

After a period of growing tensions between Native Americans and British authorities and settlers, Ottawa chief Pontiac called on Indians in the Great Lakes region and Ohio valley to force the British from their territory. During 1763–1764, Pontiac led the siege against Fort Detroit, depicted in this Frederic Remington illustration, as well as against Fort Pitt and nine other British posts. The siege ended when Pontiac's warriors ran out of supplies.



pox-infested blankets be delivered to the Indians who came to negotiate. While the attacks on Fort Detroit and Fort Pitt ultimately failed, the Indians successfully attacked nine smaller forts, which resulted in the deaths of over two hundred white traders and settlers.

Pontiac and his followers were unable to procure supplies to continue the siege, which forced many of the Indians to leave in the fall and winter. This effectively put an end to the siege. Pontiac surrendered in 1765 when it became apparent that French assistance was not forthcoming and his bid for a unified stand proved unsuccessful. Although by this time the British had acknowledged that Fort Detroit was indeed on Ottawa land, Pontiac permitted the British to remain there. Pontiac was subsequently pardoned by the British, who began to reassess their trade and gift policies. Pontiac, who was rumored to be planning an attack on the Peorias, was assassinated in 1769.

The turmoil that erupted during Pontiac's Rebellion spurred the British government to act in an effort to reduce conflict in the West. King George III issued his Proclamation of 1763, which prohibited English settlement west of a line that ran down the ridge of the Allegheny and Appalachian mountains. The proclamation did little to stem English speculation and settlement in the West, however, and ultimately helped enflame the American colonials against the English crown. In 1776 the colonies declared their independence from Great Britain.

See also *American Revolutionary War; French and Indian War (1754–1763); Great Britain, Indian Policy of; Proclamation of 1763.*

Sam Hitchmough

BIBLIOGRAPHY

- Dixon, David. *Never Come to Peace Again: Pontiac's Uprising and the Fate of the British Empire in North America*. Norman: University of Oklahoma Press, 2005.
- Dowd, Gregory Evans. *War Under Heaven: Pontiac, the Indian Nations, and the British Empire*. Baltimore: Johns Hopkins University Press, 2004.
- White, Richard. *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815*. New York: Cambridge University Press, 1991.

Powell, John Wesley

John Wesley Powell (1834–1902), an explorer and ethnologist, served in the Union Army during the Civil War (1861–1865) and lost part of his right arm at the Battle of Shiloh in 1862. After the war he worked as a professor of geology at Illinois Wesleyan College, although he lacked a formal degree.

Powell is best known for leading the 1869 and 1872 Powell Geographic Expeditions down the Colorado River and through the Grand Canyon. He also explored and mapped areas of Arizona and Utah, collecting geological information about the region and recording ethnological accounts of its Native inhabitants. Between 1868 and 1880,

he studied the Native peoples of the Great Basin and northern California. In 1880 he conducted the first census of untaxed Indians for the U.S. government. From 1881 to 1894 Powell headed the United States Geological Survey.

Powell was an important voice regarding Native American societies and the American West. He founded the Bureau of Ethnology (later the Bureau of American Ethnology) at the Smithsonian Institution in 1879. Powell brought systematic organization and government funding to bear on the study of Native American societies. He spent much of his time as head of the Bureau of Ethnology sponsoring continued field work among Native Americans and attempting to categorize existing information. For example, he classified Native American languages into fifty-six linguistic families. Ultimately, Powell hoped to incorporate ethnology, along with various other sciences, into a new "science of man."

Powell held that the study of Native Americans would help scientists understand the evolution of human society. He believed that all human societies could be plotted along a scale of evolution, existing in savagery, barbarism, or civilization. For Powell, a society's progress was not determined by its racial makeup, but rather by the influences of technology and science. He envisioned all societies traveling toward a future in which humanity would be unified. However, Powell believed that European and American societies paved the way of such progress and sat at the pinnacle of social development. Despite this, he viewed Indians as not racially inferior, but merely culturally underdeveloped, so he believed that Native Americans could—and should—be integrated into the larger American society. His views on Native Americans greatly influenced both the scientific community and policy makers.

See also *Anthropology and Ethnology; Smithsonian Institution.*

John Gram

BIBLIOGRAPHY

- Terrell, John U. *The Man Who Rediscovered America: A Biography of John Wesley Powell*. New York: Weybright and Talley, 1969.
- Worster, Donald. *A River Running West: The Life of John Wesley Powell*. New York: Oxford University Press, 2001.

Pratt, Richard Henry

Richard Henry Pratt (1840–1924) is known for an influential quarter century of work involved with Indian affairs, most notably in revising the government's educational cur-

ricula and establishing the Carlisle Indian School in Pennsylvania.

When the Civil War (1861–1865) broke out, Pratt enlisted and fought for its duration. In March 1867 he was appointed to the Tenth U.S. Cavalry, a white-led African American regiment, and soon became a first lieutenant. Because of this posting, he came to believe that African Americans, like American Indians, had the innate capacity for equality but had yet to experience the right environment in which to achieve it. Beginning in spring 1867 he was stationed for eight years in Indian Territory.

In 1875, as commander of the Indian scout service at Fort Sill, Pratt escorted a group of Cheyenne, Arapaho, Kiowa, and Comanche captives to Fort Marion in St. Augustine, Florida, and acted as their jailor. He dressed them in cast-off military uniforms and hired local teachers to deliver basic schooling and vocational training to them. The prison acted, in a sense, as an experiment for Pratt's philosophy that given the correct environment, education, and opportunities, American Indians would rise to the level of white Americans. In 1878, after the prisoners were released, Pratt joined seventeen of them at the Hampton Institute in Virginia, where he continued to work with them as an instructor.

In 1879 Carl Schurz, secretary of the interior under President Rutherford B. Hayes, and the War Department authorized Pratt to establish the Carlisle Indian School to continue the Florida experiment. Eleven of Pratt's former prisoners joined him to help establish the institution, which was housed in old cavalry barracks at Carlisle, Pennsylvania. The first students to attend the school in 1879–1880 included more than two hundred individuals from twelve tribes. By 1903, Pratt's last year at the school, enrollment had increased to 1,200 students. Over his twenty-four years at Carlisle, Pratt enrolled 4,903 boys and girls from seventy-seven tribes. In 1882 the federal government began funding the school's operations.

Carlisle was operated as a quasi-military school. Students lived a highly regimented life; they were forced to wear uniforms, not allowed to speak their tribal languages, and often beaten for violations of school rules. The school also cut short the hair of Native men, an act that symbolically attacked their Indian identity. Pupils were taught English, math, geography, and history, as well as taking manual and industrial training courses in blacksmithing, carpentry, and farming. Girls were taught largely domestic skills. A prominent aspect of the school was the "outing system," where

students lived with citizens in the local community during the summer months as proof of their potential to assimilate. By 1887 the government had embraced Pratt's educational system and was implementing it in Indian boarding schools around the country. Pratt, for his part, called for boarding schools to be established away from the reservations, for he believed that Native students needed to be removed from the reservation environment to prepare them for assimilation.

Pratt believed that the eradication of Indians' cultural and tribal bonds would enable them to be recast in the mold of a civilized white American. The process was represented by the school's motto, "Kill the Indian to Save the Man." Pratt's fiercely held ideology that Indian potential could only be realized through Americanization has drawn serious criticism from many quarters. The single-minded way in which his belief was put into practice, couched in the absolute assumption of the superiority of white Western values, led him to wilfully seek to destroy Indian culture and tribal affiliations. Boarding schools became associated with abuse and cultural genocide for many American Indians.

In 1904 Pratt was removed from his post for insubordination after he called for the abolition of the Office of Indian Affairs in a speech. After his forced retirement, Pratt continued to write to the government with his ideas and completed his memoirs. He died on April 24, 1924.

Carlisle continued to operate until 1918. Some of the school's noteworthy graduates included Luther Standing Bear, Jim Thorpe, and Charles Eastman.

See also *Assimilation and Acculturation; Carlisle Indian School; Education: Boarding Schools; Hampton Normal and Agricultural Institute; Hayes, Rutherford B.; Schurz, Carl.*

Sam Hitchmough

BIBLIOGRAPHY

- Adams, David Wallace. *Education for Extinction: American Indians and the Boarding School Experience, 1875–1928*. Lawrence: University Press of Kansas, 1995.
- Pratt, Richard Henry. *Battlefield and Classroom: Four Decades with the American Indian, 1867–1904*. Norman: University of Oklahoma Press, 2004.
- Standing Bear, Luther. *Land of the Spotted Eagle*. Lincoln: University of Nebraska Press, 1978.

Preemption

U.S. law utilizes the term *preemption* in several ways. For instance, it is used to describe instances in which U.S. federal constitutional and treaty provisions, laws, regulations, and

policies supersede the laws or regulations of states, localities, or tribes due to the U.S. Constitution's Supremacy Clause. Federal law, in other words, "preempts" state or local laws that attempt to regulate Indian tribes, reservations, or tribe members.

In American Indian law, the right of preemption specifically refers to the exclusive right to acquire land from Indian tribes. Under the legal doctrine of discovery, affirmed by the U.S. Supreme Court in *Johnson v. M'Intosh* (1823), European nations acquired a "preemptive right" to the North American lands they "discovered," subject to Indian tribes' rights to use and occupy traditional tribal grounds. The law of nations gave the European power the exclusive right to acquire the "occupancy" or "possessory" right from the Indian tribe and could do so by purchase, surrender, or conquest.

In 1763 King George III issued a proclamation preempting anyone other than the Crown itself from purchasing tribes' rights of use and occupancy west of the Appalachians—one of the grievances against him listed in the Declaration of Independence. After U.S. independence was declared in 1776, delegates from the thirteen former colonies met and adopted the Articles of Confederation, which gave each of the states the preemptive right to purchase Indian lands within their borders. In *Johnson v. M'Intosh*, the Supreme Court declared that the United States had acquired Great Britain's preemptive right with its victory in the American Revolutionary War (1775–1783). In 1790 the first U.S. Congress passed the first of a series of trade and intercourse acts banning Indian land sales to states and individuals unless authorized by the United States. The prohibition was grounded on the theory that the United States held the preemptive right to acquire American Indian land.

See also *Aboriginal Indian Title; American Revolutionary War (1775–1783); Discovery, Doctrine of; Indian Title; International Law; Johnson v. M'Intosh (1823); Marshall, John; Proclamation of 1763; Right of Soil; Trade and Intercourse Acts.*

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BIBLIOGRAPHY

- California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987).
- Johnson and Graham's Lessee v. M'Intosh*, 21 U.S. (8 Wheat.) 543 (1823).
- Miller, Robert J. *Native America, Discovered and Conquered: Thomas Jefferson, Lewis & Clark, and Manifest Destiny*. Westport, Conn.: Praeger, 2006.
- Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005.
- United States v. Dion*, 476 U.S. 734 (1986).

Price, Hiram

Born in Washington County, Pennsylvania, Hiram Price (1814–1901) spent his youth in Iowa and became a prominent banker before being elected to Congress as a Republican in 1863. During the Ulysses S. Grant administration, Price supported proposals to reform the corruption and waste in the Office of Indian Affairs.

After returning to Iowa in 1869 and serving as the president of the Davenport and St. Paul Railroad Company, Price regained his seat in the House of Representatives, serving again as a Republican from 1877 to 1881. Because of his managerial skills and his friendship with Secretary of the Interior Samuel Kirkwood, Price was appointed as the commissioner of Indian affairs in 1881 and held the position until 1885.

Price believed that Indians needed to abandon their traditional practices and learn the ways of American “civilization.” In his position as commissioner, he advocated policies that promoted Christianity and American-style education for Natives and attempted to stamp out traditional Indian cultural practices. For example, he established the courts of Indian offenses. Headed by government-friendly Indian judges, the courts tried Indians for practicing allegedly “savage” customs, including certain dances, plural marriages, and rites performed by Indian medicine men. Price also advocated cutting off government rations to force Indians to abandon their traditional lifestyle and become economically independent farmers. Price was a devout Methodist who attempted to fill vacant Indian agent positions with what he believed were honest Christian men.

Price was perhaps best known for his strong support of the government’s allotment policy. By dividing up the Indians’ commonly held tribal lands and putting each Indian in possession of his own piece of land, Price hoped to instill individuality, responsibility, and a desire to accumulate property into the Natives. Allotment, Price reasoned, would thus prepare Indians to participate fully in American life as citizens. Instead, the practice created cultural distress and economic impoverishment for many Native Americans.

See also *Allotment in Severalty; Congressional Committees on Indian Affairs; Courts of Indian Offenses; Grant, Ulysses S.*

Jesse Turner Schreier

BIBLIOGRAPHY

Gue, B. F. “The Public Services of Hiram Price.” *Annals of Iowa*, 3rd series, vol. 1, no. 8 (1895): 585–602.

O’Neil, Floyd A. “Hiram Price, 1881–1885.” In *The Commissioners of Indian Affairs, 1824–1977*, edited by Robert M. Kvasnicka and Herman J. Viola, 173–179. Lincoln: University of Nebraska Press, 1979.

Prucha, Francis Paul. *American Indian Policy in Crisis: Christian Reformers and the Indian, 1865–1900*. Norman: University of Oklahoma Press, 1976.

Proclamation of 1763

After the French and Indian War (1754–1763), Great Britain replaced France as the dominant power in the Great Lakes and Ohio Valley regions. When the British failed to continue the diplomatic and trade policies practiced by the French or stem the tide of settlers pouring into their territories, many of the area’s Native tribes heeded the call of Ottawa leader Pontiac to drive the British out of the region.

After putting down the Native resistance, King George III of England took direct control of Indian affairs in North America by issuing the Proclamation of 1763. The proclamation established a boundary line along the crest of the Appalachian and Allegheny mountains, from Canada southward, over which British citizens were not to cross or settle. In essence, the king defined Indian Country or Indian lands as all territory west of that line. While the British government did not recognize the complete sovereignty of the tribes over this territory, it did acknowledge that Indians possessed some form of rights to those lands.

The British planned on an orderly movement of the line to the west to allow for the expansion of the English population into Indian Country. To control the colonists, George III ordered that his colonial governors and military commanders could not grant land titles west of the Appalachian and Allegheny mountains. Furthermore, no British subject could purchase or settle on Indian lands or trade with Indians west of the proclamation line without royal permission.

The king centralized control of colonial Indian relations by appointing superintendents who held sole jurisdiction over Indian affairs and interactions with the Indian nations in America. The king also oversaw commercial trade with Indians and all purchases of tribal lands to the exclusion of the colonial governments. The proclamation also established political and legal institutions to govern the territories acquired from France in the Treaty of Paris (1763), which ended the French and Indian War.

The colonists and their local governments were outraged by the royal interference in what they considered their private business. George Washington and other colonists con-

tinued to survey and speculate in Indian lands in violation of the proclamation. The British government responded by making adjustments to the line to take into account settlements already present west of it and signed several treaties with tribes to open up much of present-day West Virginia and Kentucky to colonists. The Proclamation of 1763 continued to play a significant role in how the British, and later the Canadian, government managed relations with First Nations peoples in Canada.

See also *French and Indian War*; *Great Britain, Indian Policy of*; *Paris (1763), Treaty of*; *Pontiac's Rebellion*; *Washington, George*.

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BIBLIOGRAPHY

- Anderson, Fred. *Crucible of War: The Seven Years' War and the Fate of Empire in British North America, 1754–1766*. New York: Alfred A. Knopf, 2000.
- Calloway, Colin. *The Scratch of a Pen: 1763 and the Transformation of North America*. New York: Oxford University Press, 2006.
- Miller, Robert J. *Native America, Discovered and Conquered: Thomas Jefferson, Lewis and Clark, and Manifest Destiny*. Westport, Conn.: Praeger Publishers, 2006.

Prucha, Francis Paul

The thorough research and thought-provoking narratives by Francis Paul Prucha, S.J. (1921–) on the history of U.S. Indian policy make him the most important and influential scholar in the study of U.S.-Indian relations.

Prucha was born in River Falls, Wisconsin, and educated at River Falls (Wisconsin) State Teachers College (BS), the University of Minnesota (MA), and Harvard University (Ph.D.). He also attended St. Stanislaus Seminary, Saint Louis University, and St. Mary's College (Kansas) as part of his religious training and was ordained as a priest in 1957.

Prucha's awards and honors include a Guggenheim Fellowship, six honorary degrees, and two National Endowment for the Humanities Research Fellowships. Prucha served as a trustee for Saint Louis University and Loyola University Chicago, is a charter member and former president of the Western History Association, and published widely for his religious order, the Jesuits or Society of Jesus (S.J.). Prucha also had a notable teaching career, most of which was spent at Marquette University.

In his work, Prucha generally argues that paternalism was consistently the primary motivation behind federal Indian policies. While scholars widely appreciate Prucha, he does have critics who contend that this thesis understates the



Francis Paul Prucha's voluminous published works contribute greatly to the understanding and study of U.S. Indian policy. Prucha's book, *The Great Father*, is among his most important works.

moral culpability of the United States for its treatment of Native Americans.

No one can deny, however, that the sheer volume and quality of Prucha's scholarship on U.S. Indian policy is unparalleled, and his work is often cited in histories and legal cases regarding Native Americans and treaty issues. Prucha's greatest achievement was *The Great Father: The United States Government and the American Indians*, a two-volume work of twelve hundred pages that covered federal Indian policy from its origins in the 1770s until the date of its publication in 1984. Some of his other notable works include *American Indian Treaties: The History of a Political Anomaly*; *Churches and the Indian Schools, 1888–1912*; *American Indian Policy in the Formative Years: The Indian Trade and Intercourse Acts, 1790–1834*; and *The Indians in American Society: From the Revolutionary War to the Present*. At a panel honoring Prucha's work, noted historian Richard White said, "We all start with *The Great Father* when we study American Indian Policy."

See also *U.S. Indian Policy: Congress and the Executive, 1775–1803*; *U.S. Indian Policy: Congress and the Executive, 1803–1848*; *U.S. Indian Policy: Congress and the Executive, 1845–1877*; *U.S. Indian Policy: Congress and the Executive, 1871–1934*; *U.S. Indian Policy: Congress and the Executive, 1928–1946*; *U.S. Indian Policy: Congress and the Executive, 1944–1962*; *U.S. Indian Policy: Congress and the Executive, 1960–*.

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BIBLIOGRAPHY

- Prucha, Francis Paul. *American Indian Policy in Crisis: Christian Reformers and the Indian, 1865–1900*. Norman: University of Oklahoma Press, 1976.
- . *American Indian Policy in the Formative Years: The Indian Trade and Intercourse Acts, 1790–1834*. Lincoln: University of Nebraska Press, 1970.
- . *American Indian Treaties: The History of a Political Anomaly*. Berkeley: University of California Press, 1994.
- . *Atlas of American Indian Affairs*. Lincoln: University of Nebraska Press, 1990.
- . *Churches and the Indian Schools, 1888–1912*. Lincoln: University of Nebraska Press, 1979.
- . *Documents of United States Indian Policy*. Lincoln: University of Nebraska Press, 2000.
- . *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- . *The Indians in American Society: From the Revolutionary War to the Present*. Berkeley: University of California Press, 1988.
- . *The Sword of the Republic: The United States Army on the Frontier, 1783–1846*. Lincoln: University of Nebraska Press, 1987.

Public Law 280 (1953)

The Eighty-Third Congress passed Public Law 280 in 1953 over the objections of American Indians. It was passed fifteen days after House Concurrent Resolution 108 laid the groundwork for termination, which was the central federal Indian policy from 1953 to 1968. The resolution declared it to be “the policy of Congress, as rapidly as possible, to make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States.” Public Law 280 attempted to implement this policy by making some Indians subject to state laws.

The law gave five states—California, Minnesota, Nebraska, Oregon, and Wisconsin—some civil and complete criminal jurisdiction over most tribal members within their borders and permitted other states to choose to assume jurisdiction over their own tribal residents. The states involved all had significant Native populations. Previously, treaties and federal policy had precluded state involvement in Indian affairs. Federal and tribal authorities had held jurisdiction in Indian Country, and states’ enabling acts generally contained “disclaimer clauses” that explicitly left their governments out of the federal–Native nation relationship.

P.L. 280 eliminated federal jurisdiction in impacted states and left Indians in those states subject to state jurisdiction. It also eroded the authority of tribal governments by eliminating their exclusive jurisdiction over their members, discouraging development of tribal courts, and subverting the gov-

ernment-to-government relationship between Native nations and the United States. Individual Indians became subject to state courts and laws, which were often actively unfriendly to Native interests and rights.

P.L. 280 specified that offenses “by or against Indians” within Indian Country would be subject to state jurisdiction. Three reservations were excluded from the law’s effect as a result of lobbying efforts: the Red Lake reservation in Minnesota, Warm Springs reservation in Oregon, and Menominee reservation in Wisconsin. However, the Menominees were made subject to state jurisdiction when their reservation was terminated in 1954. The Territory of Alaska was added to P.L. 280 in 1958. A number of additional states have, at various times, taken on differing levels of jurisdiction over Indian Country within their borders.

The statute specified that its provisions did not alienate any property held in trust for Indians by the United States, including Native water rights. The law also did not authorize regulation of trust property “in a manner inconsistent with any Federal treaty, agreement, or statute” or deprive Indian individuals, tribes, or communities of any of their rights “under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof.”

P.L. 280 did not include any appropriations, and because state governments did not have the power to tax on reservations, they often simply refused to enforce laws in Indian Country. Overall, however, states used the law to assume some authority over reservation activities, including land use, school attendance, child protection, motor vehicle operation, and issues dealing with mental illness.

In some instances, Native people were able to defeat P.L. 280, most notably in South Dakota. There, the state legislature passed a law asserting jurisdiction over reservations in 1963, but Indian leaders within the state collected the signatures necessary for a public referendum on the new law, and it was struck down in November 1964.

Because P.L. 280 was vague on the specifics that were important to determining jurisdiction in and around Indian Country, it also became subject to considerable litigation, much of it centered around exactly who had jurisdiction in exactly which situations and locations. Relevant cases include *McClanahan v. State Tax Commission of Arizona* (1973), *Oliphant v. Suquamish Indian Tribe* (1978), and *Nevada v. Hicks* (2001). Critical topics include environmental regulation, gaming, water rights, and natural resource extraction.

Attempted solutions to the problems created by P.L. 280 included two provisions of the Indian Civil Rights Act of 1968. One provision barred states from taking jurisdiction without a consenting vote of tribal members, and the second permitted the federal government to accept a “retrocession” of state jurisdiction. The latter option has been exercised for a number of reservations.

Tribal governments also regained jurisdiction over child custody cases with the Indian Child Welfare Act of 1978 and over their ancestors’ remains under the Native American Graves Protection and Repatriation Act of 1990. As of September 2008, P.L. 280 still applied to varying degrees to Native people within eleven states. Tribal-state jurisdiction issues remain characterized by conflict and lack of clarity.

See also *Indian Child Welfare Act*; *Indian Civil Rights Act of 1968*; *Native American Graves Protection and Repatriation Act*; *Oliphant v. Suquamish Indian Tribe*; *States’ Rights*; *Termination and Restoration*.

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BIBLIOGRAPHY

- Deloria, Vine, Jr., and Clifford M. Lytle. *American Indians, American Justice*. Austin: University of Texas Press, 1983.
- Goldberg, Carole, and Duane Champagne. “Final Report: Law Enforcement and Criminal Justice under Public Law 280,” November 1, 2007, www.law.ucla.edu/docs/pl280_study.pdf.
- Goldberg-Ambrose, Carole. *Planting Tail Feathers: Tribal Survival and Public Law 280*. Los Angeles: University of California, 1997.
- Johnson, Troy R., ed. *Contemporary Native American Political Issues*. Walnut Creek, Calif.: AltaMira Press, 1999.
- Luna-Firebaugh, Eileen. *Tribal Policing: Asserting Sovereignty, Seeking Justice*. Tucson: University of Arizona Press, 2007.
- Pevar, Stephen L. *The Rights of Indians and Tribes: The Basic ACLU Guide to Indian and Tribal Rights*. 2nd ed. Carbondale: Southern Illinois University Press, 1992.
- Wunder, John R. “*Retained by the People*”: *A History of American Indians and the Bill of Rights*. New York: Oxford University Press, 1994.
- . ed. *Native Americans and the Law: Contemporary and Historical Perspectives on American Indian Rights, Freedoms, and Sovereignty*. New York: Garland Publishing, Inc., 1996.

Pueblo Lands Act (1924)

Congress passed the Pueblo Lands Act in 1924 to protect the land rights of the Pueblo Indians living in the state of New Mexico. In 1851 Congress had extended to New Mexico’s Native tribes protection under the trade and intercourse acts, which placed restraints on the alienation of their land. Nearly two decades later, the United States Supreme Court, in *United States v. Lucero* (1869), ruled that a non-Indian’s unauthorized settlement on Pueblo lands was a federal

offense, because it violated Section 11 of the Trade and Intercourse Act of 1834. In *United States v. Joseph* (1876), however, the Court reversed itself, ruling that Pueblo Indians were defined as U.S. citizens rather than “Indians,” since the 1848 Treaty of Guadalupe Hidalgo had required all residents living in the territory Mexico ceded to the United States in that agreement be accorded the full rights of U.S. citizens. The Court added that the Pueblos were not “American Indians” subject to the act because they were not under the supervision of an Indian agent, they owned their land in fee, they lived in settled communities, and they were peaceful and civilized. This ruling put the protection of Pueblo lands and resources in serious jeopardy, for the land was not held in trust by the federal government as it was for other “Indian” tribes.

The Pueblos fought to protect their land until 1913, at which time the Supreme Court reversed the *Joseph* decision in *United States v. Sandoval* and finally recognized the Pueblos’ rights as “Indians” subject to protection by the federal government pursuant to the Trade and Intercourse Act of 1834. The Court in *Sandoval* noted that the Pueblos had been recognized as Indians, and their territory as Indian Country, in the enabling act that established the state of New Mexico.

In 1922 New Mexico senator Holm O. Bursum introduced into Congress legislation popularly referred to as the Bursum Bill, which clearly favored non-Indian claimants to Pueblo land and would have granted title to many of the Hispanic and Anglo farmers and ranchers encroaching into Pueblo territory. In November of the same year, the Pueblos issued “An Appeal to the People of the United States” to protest the Bursum Bill, then under debate in Congress. The Pueblos received support in their opposition from several groups, including the All Pueblo Council, an organization comprised mostly of white supporters of the Indians; the Indian Rights Association, which had long called for reforms in U.S. Indian policy; and the American Indian Defense Association, a body organized by John Collier, who would assume the position of commissioner of Indian affairs in 1932. In response, Congress passed a compromise called the Pueblo Lands Act (1924) to resolve competing land claims and to redress the Pueblos’ grievances over the federal government’s failure to protect their lands following the Treaty of Guadalupe Hidalgo.

The Pueblo Lands Act established the Pueblo Lands Board to resolve claims that arose from earlier court decisions that had allowed Pueblo land sales. The board was comprised of three people: the attorney general, the secre-

tary of the interior, and a third member appointed by the president. Their duties included identifying lands to which Indian title had not been extinguished, awarding Pueblo Indians compensation for land losses that the federal government could have prevented, and determining fair market value of lands that non-Indian claimants improved in order to compensate them for land returned to the Pueblos.

While the act determined that non-Indians could not have acquired Pueblo lands without federal approval, it also recognized non-Indian title gained through adverse possession, which meant that undisputed occupancy on a parcel of land during a specified time period confirmed a person's right to possess that land no matter who held the title. For losses that the federal government could not have prevented, the act allowed non-Indian claimants who had occupied land from 1889 without Pueblo objection to obtain title to that land under the rules of adverse possession. Approximately three thousand non-Indian claims arose over land within the boundaries of that granted to the Pueblos, involving around twelve thousand persons.

While the Pueblo Lands Act was an attempt by Congress to prevent non-Indian acquisition of Pueblo lands and resources, after 1924 the act itself provided non-Indians with the means to gain title to Pueblo lands, resulting in substantial losses. The board encountered problems from its very beginning, when chair Herbert J. Hagerman admitted that they had no idea how to proceed or what goals they hoped to reach. Ultimately though, the board operated for nine years and approved around 80 percent of non-Indians' claims, equaling approximately fifty thousand acres.

The most well-known dispute that arose out of the Pueblo Lands Act involved the Taos Pueblos' sixty-four-year legal battle to reclaim Blue Lake and the surrounding area. The Taos Pueblo offered to surrender any monetary compensation the federal government awarded the tribe if they received title to Blue Lake. They received neither compensation nor title until 1970 when President Richard Nixon signed the Blue Lake Bill, returning the lake and surrounding areas to the tribe.

Centuries after the first Spanish land grants were made, and 150 years after the Treaty of Guadalupe Hidalgo was signed, conflicts continue to persist over land claims in the region.

See also *Bursum Bill (1922)*; *Collier, John*; *Guadalupe Hidalgo (1848)*, *Treaty of*; *Taos Pueblo of Blue Lake*; *Trade and Intercourse Acts*.

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BIBLIOGRAPHY

- Bowden, J. J. "Spanish and Mexican Land Grants in the Southwest." *Land & Water Law Review*, vol. 8 (1973) 467–512.
- Brayer, Herbert O. *The Pueblo Indian Land Grants of the 'Rio Abajo,' New Mexico*. Albuquerque: University of New Mexico Press, 1938.
- Hall, G. Emlen "The Pueblo Land Grant Labyrinth." In *Land, Water, and Culture: New Perspectives on Hispanic Land Grants*, edited by Charles L. Briggs and John R. Van Ness, 67–138. Albuquerque: University of New Mexico Press, 1987.
- Sando, Joe S. *Pueblo Nations: Eight Centuries of Pueblo Indian History*. Santa Fe, N.M.: Clear Light Books, 1992.

Pueblos

Pueblo, the Spanish word for village, derives from the Latin word *populus*, which means people. Its definition encompasses both the Pueblo Indians and their communal homes. Oral histories trace the Pueblos' lineage to the ancient Anasazi civilization. Since prehistoric times Pueblo Indians have been peaceable, sedentary agriculturalists who have cooperated to form complex religious and social organizations and highly efficient tribal governments.

The entire social, religious, and moral structure of Pueblo Indian life is rooted in the land. The Pueblos built irrigation ditches, and each village cultivated common fields, raising crops that included corn, beans, cotton, melon, squash, and chili peppers. Domesticated turkeys and wild game supplemented their diet. Typically, men worked the fields, wove, built houses, hunted, and conducted ceremonies while women prepared food, took care of children, made baskets and pottery, and carried water. Indian children were cherished, and women enjoyed a high status in domestic and community life. Expert masons, the Pueblos built villages of adobe brick that have survived over centuries. Pottery, turquoise jewelry, and decorative costumes are all hallmarks of the Pueblo Indians' craft-making skills.

Today's Pueblo Indians are situated along the upper Rio Grande Valley in the state of New Mexico, among the Hopis in northeastern Arizona, and in tiny Isleta del Sur near El Paso, Texas. Acoma pueblo in New Mexico is the oldest continuously inhabited pueblo in the United States. Isleta del Sur sits just across the border in Texas and was founded when Pueblo people fled New Mexico during the Pueblo Revolt of 1680. The villages of the Hopi pueblos are scattered across 1.5 million acres (607,000 hectares) of reservation land.

Before the United States

In the seventeenth century Spanish explorers and missionaries established contact with the Pueblo Indians. Spanish

administrators subsequently divided the pueblos into districts and assigned to each a priest. In 1630 Fray Alonson Benavides, head of the Franciscan Order, appealed to his superiors for additional missionaries. Answering his appeal, the Church sent thirty. The new arrivals founded missions throughout the region, but the Indians did not embrace the Catholic Church. A Pueblo revolt erupted in August 1680 that led to the destruction of the missions and the deaths of some 2,350 people. The hostilities ended only when the Indians abandoned their traditional settlements and inhabited new ones more remote from the European invaders. In 1692 Diego de Vargas reconquered the Pueblos; of the pre-contact pueblos, only Acoma, and possibly Isleta del Sur, remained inhabited after the conquest. Vargas put down another Indian revolt in 1696; from that point forward, the Pueblos remained peaceful.

In 1820 Pueblo Indians became citizens of Mexico in the aftermath of the Mexican Revolution. Some twenty-eight years later, after the United States won the U.S.-Mexican War (1848) and acquired what is now the American Southwest, the Pueblos became some of the first Indians in the region to gain U. S. citizenship. The Treaty of Guadalupe Hidalgo had directed the United States to accept the Pueblo Indians as citizens. Most other Southwest Indians did not become U.S. citizens until passage of the Indian Citizenship Act (1924).

The treaty also brought the Pueblo Indians under the jurisdiction of the Office of Indian Affairs (OIA). The U.S. government recognized the legal title of the Pueblo Indians to their lands. The Pueblos quickly learned, however, that legal title did not discourage illegal encroachment. Because their Spanish land grants were considered legitimate, U.S. territorial officials held that Pueblo lands did not constitute reservations and could be sold or otherwise disposed of as the owners saw fit. Deprived of the protection of federal authority, Pueblo lands attracted Hispanic and Anglo squatters in increasing numbers. In addition, the Pueblos discovered that American citizenship did not protect them from Apache, Navajo, and Ute raiders.

The Indian New Deal

Progressive reformer John Collier arrived in the pueblos in 1922 suffused with a missionary ardor—though not of a religious kind. Collier set out to rescue Native tribes from what he called the machinations of the Indian office; American theft of Indian lands, water, and oil rights; and cultural genocide. For Collier, the communal and ceremonial life of the

Pueblo Indians contained definitive answers to the problems of human society and therefore needed to be preserved to benefit all humankind. He charged with some accuracy that the Indian office, with its push for assimilation and its acquiescence in the work of Christian missionaries, had been largely responsible for destroying Indian culture. Collier favored maintaining a delicate ideological balance between non-acculturation and moderate assimilation while using the American legal and financial system to protect Native property, political rights, and culture. He felt that the pre-Christian Pueblo religions were primarily religions of the land, and if the Indians were torn away from their land, they would be divested of their religion. Destroying the Pueblo religions, he believed, would be a mistake on a par with the Spanish destruction of the written records of the Mayan Civilization.

In the mid-1920s Collier and Father Fridolin Schuster, a Franciscan missionary, joined forces in the pueblos to defeat the Bursum Bill (1922). If passed the bill would have taken sixty thousand acres (24,291 hectares) of land away from the Pueblos. After the Bursum Bill's defeat, Collier and Father Schuster found themselves on opposite sides of a bitter partisan battle for the lands and souls of the Pueblo Indians. Collier helped organize the All Pueblo Council and led the fight to convince Congress to pass the Pueblo Lands Act (1924), which safeguarded the ancestral lands of the Pueblo Indians.

After Franklin D. Roosevelt became president in 1933, his secretary of the interior, Harold Ickes, nominated Collier to head the OIA. Collier's experience in the pueblos had intensified his desire to restore Indian culture and heritage and to continue to address communal land base and land purchase issues. He renewed his vow to regenerate tribal self-government and channeled all of these goals into a program that he called the Indian New Deal. Collier utilized the various New Deal agencies and programs to implement his own strategy for revitalizing Native communities.

The centerpiece of Collier's Indian New Deal was the Indian Reorganization Act (IRA), which was passed in 1934. The IRA reflected a radical shift in U.S. Indian policy from forced assimilation to cultural pluralism. The law required the government to abandon the allotment of Native land and allowed tribes to reacquire their lands and hold them in a communal fashion, as they had in the days before allotment. The IRA also provided special appropriations for education, established procedures for establishing tribal constitutions and municipal-style governments, and

removed prohibitions on traditional Pueblo languages and religions. The law laid the foundation for an Arts and Crafts Board that would expand markets for Pueblo goods and provide college money for qualified Indians.

Many of the Pueblos opted to implement the self-government structures provided by the IRA. However, the option to establish western-style municipal corporations proved divisive, particularly among the Hopis. Some Hopis supported the new administrative system, while others resisted the provisions for tribal councils and constitutions on the grounds that they too closely resembled western political systems and did not provide institutions that were consistent with their traditional way of life. The Hopi Tribal Council helped deepen the factional divide by superimposing itself over the traditional village system of administration.

The Twenty-First Century

Throughout the twentieth century the Pueblo Indians and the U.S. government clashed over water and mineral rights. In most instances it was the government that prevailed. With the advent of the twenty-first century, however, the attitudes at the Department of the Interior and the Bureau of Indian Affairs seem to be more conciliatory. In 2007 New Mexico senator Pete Domenici introduced a bill to raise \$1.37 billion over the next decade to resolve disputes between four Santa Fe-area pueblos and non-Indian water users (the *Aamodt* case), and to settle the Abeyta Indian water rights case in Taos County. Another suit resolved Navajo water rights claims in the San Juan River Basin. In August 2008 Senator Domenici and fellow New Mexico senator Jeff Bingaman, along with U.S. House representative Tom Udall, introduced federal legislation to settle chronic Indian water rights cases in the Santa Fe and Taos areas.

The new legislation would authorize the secretary of the interior to develop water infrastructure in the Rio Grande Basin and approve settlements of the water rights claims of the Nambe, Pojoaque, San Ildefonso, Tesuque, and Taos pueblos. The *Aamodt* settlement calls for the creation of a regional water system in Santa Fe County that will serve area pueblos and non-Indian water users alike. The federal government is estimated to spend approximately \$160 million over the next decade to build and maintain this system. The state of New Mexico and Santa Fe County will contribute about \$70 million toward the project. Part of the Taos settlement includes direct funding to the people of the Taos pueblo to enable them to manage water resources and fund projects to improve water quality in the Taos Valley. The Taos settlement

is estimated to cost the federal government about \$114 million and the state of New Mexico about \$15 million.

The Department of the Interior has also moderated its attitude toward mineral rights. In a 2006 landmark action, the Department of the Interior and the state of New Mexico exchanged subsurface mineral estates, consolidating lands owned by Acoma pueblo and resolving decades of split estate issues. Acoma acquired 12,834 acres (5,194 hectares) of state-owned minerals lying beneath pueblo lands and the New Mexico Land Office acquired 9,154 acres (3,706 hectares) of federally owned minerals in Socorro and Cibola counties. State and federal officials cited the transaction as a sign of mutual respect between the Pueblos and the federal and state governments. Although the modern Pueblo economy remains agriculturally based with a livestock component, it also has diversified. The sale of handicrafts such as baskets and pottery has become an important part of the Pueblo economy, along with weaving, jewelry-making, and drum making. Art collectors prize the work of Pueblo potters, and the fine cotton and wool clothing and wool blankets of the Pueblo weavers are highly sought. Pueblo Indians also work in modern urban centers such as Santa Fe and in modern companies such as the Los Alamos National Laboratory. They have become entrepreneurs in the modern sense, developing an array of businesses within their pueblos.

About sixty thousand people identified themselves as Pueblo Indians in the 2000 U.S. Census, and an additional fifteen thousand reported that they were part Pueblo. Modern Pueblo Indians face the same challenges that many other Americans face: inferior health care, poor schooling, low incomes, and unemployment. Today, most Pueblo Indians strive to honor their ancient traditions while adapting to modern American life. Those who have left their villages return often to stay in touch with traditional social and religious values. Although they are at times in conflict with the dominant culture, the Pueblo Indians have managed to keep their own culture and identity intact.

See also *All Indian Pueblo Council*; *Bureau of Indian Affairs*; *Bursum Bill (1922)*; *Collier, John*; *Guadalupe Hidalgo (1848)*; *Treaty of*; *Indian Citizenship Act (1924)*; *Indian New Deal*; *Indian Reorganization Act (1934)*; *Mexico, Indian Policy of*; *Missions and Missionaries*; *Pueblo Lands Act (1924)*; *Spain, Indian Policy of*; *Taylor, Zachary*; *U.S.-Mexican War (1846-1848)*.

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BIBLIOGRAPHY

Auerbach, Jerold S. *Explorers in Eden: Pueblo Indians and the Promised Land*. Albuquerque: University of New Mexico Press, 2006.

- Daly, David. *Battle for the BLA; G.E.E. Lindquist and the Missionary Crusade Against John Collier*. Tucson: University of Arizona Press, 2005.
- DuMars, Charles, Marilyn O'Leary, and Albert Utton. *Pueblos Indian Water Rights: Struggle for a Precious Resource*. Tucson: University of Arizona Press, 1984.
- Kelly, Lawrence C. *The Assault on Assimilation: John Collier and the Origins of Indian Policy Reform*. Albuquerque: University of New Mexico Press, 1983.
- Philp, Kenneth R. *John Collier's Crusade for Indian Reform*. Tucson: University of Arizona Press, 1977.
- . *Termination Revisited: American Indians on the Trail of Self-Determination, 1933–1953*. Lincoln: University of Nebraska Press, 2002.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- . *The Indians in American Society: From the Revolutionary War to the Present*. Berkeley: University of California Press, 1988.
- Trimble, Stephen. *The People: Indians of the American Southwest*. Santa Fe: School of American Research, 1993.

Pushmataha

Pushmataha (c. 1764–1824) rose to prominence as a warrior who distinguished himself in battle against the Caddos and Osages. He was elected mingo (chief) of the Six Towns district of the Choctaw Nation in 1805. That same year he signed the Treaty of Mount Dexter, which ceded Choctaw lands in Alabama and Mississippi to the United States. In return, Pushmataha received a lump sum payment of \$500 and an annual payment of \$150.

In 1811 Tecumseh visited the Choctaws and urged them to join his pan-Indian nativist alliance. Pushmataha countered Tecumseh's arguments and persuaded his fellow Choctaws to reject the call for war. When the Creek Civil

War of 1813–1814 erupted, Pushmataha and five hundred Choctaw warriors allied themselves with General Andrew Jackson against the Red Stick Creeks. Pushmataha fought alongside Jackson at the battles of Holy Ground and Horse-shoe Bend, and in the war against the Seminoles. He was rewarded for his service with a brigadier general's commission in the United States Army.

Pushmataha negotiated the Treaty of Fort St. Stephens in 1816, which ceded Choctaw lands in exchange for the money required to establish and maintain schools. He ceded more land in 1820 in the Treaty of Doak's Stand. In 1824 Pushmataha led a delegation to Washington, D.C., to address concerns over violations of existing treaties and demands for more land cessions by the Choctaws. He died during the negotiations and was buried with full military honors at the Congressional Cemetery.

See also *Creek Civil War (1813–1814)*; *Jackson, Andrew*; *Tecumseh*.

John R. Burch Jr.

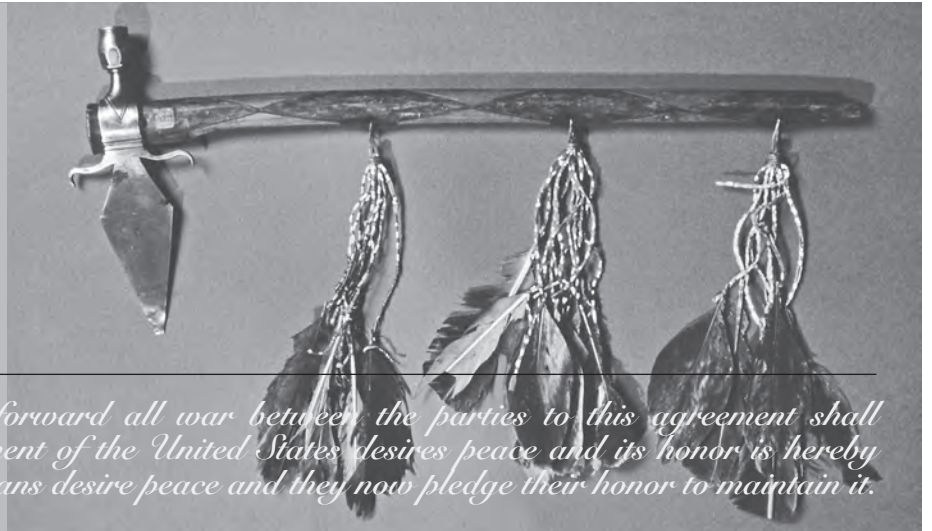
BIBLIOGRAPHY

- Carson, James Taylor. *Searching for the Bright Path: The Mississippi Choctaws from Prehistory to Removal*. Lincoln: University of Nebraska Press, 1999.
- Lincecum, Gideon. "Life of Apushmataha." *Publications of the Mississippi Historical Society*, vol. 9 (1906): 415–485.

Puyallup Tribe v. Department of Game (1968; 1977)

See *Fishing, Hunting, and Gathering Rights*.

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Article 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they now pledge their honor to maintain it.

Race and Racial Thinking

In the nineteenth century, European and American scientists worked to identify the characteristics of people of different “races,” which they believed were biologically distinct. Many political leaders accepted the science of the time, which suggested that people of European descent were intellectually and physically superior to those peoples from other places around the world. The scientific conclusions of what one scholar called “racial determinism” clearly had an impact on U.S. government policy toward Native Americans.

Western philosophers, from ancient Greece to the Enlightenment era, theorized that these differences could be accounted for by physical and cultural variations. In the seventeenth century John Locke (1632–1704) argued that the human mind was a blank slate at birth and that one’s character and personality were formed by one’s education and environment. French philosopher Voltaire (1694–1778) suggested that favorable environmental conditions contributed to the creation of a European civilization superior to others. In theory then, education could raise up non-Europeans to the same level. It is this attitude that first informed the approach of U.S. federal policy toward Native Americans. Beginning in the 1790s the United States developed policies to support Native American assimilation into white society and culture, promoting agriculture, private land ownership, Western-style education, and conversion to Christianity.

On its surface, the civilization program possessed the paternalistic aim of acculturating Native Americans to white ways and preparing them for assimilation on an equal plane into American society. At the same time, however, the program was designed to enable the U.S. government to acquire

Native land. Under the civilization program designed by George Washington and Henry Knox, the United States would help transform Indians from hunters into farmers. With Indian men no longer needing to hunt to subsist, the United States could then acquire excess Native land and redistribute it to white Americans. Under the civilization plan, as white Americans moved into the West they would surround and assimilate Indians, who had, under the Enlightenment philosophy held at the time, become their equals.

Instead of looking for commonalities, racial theorists of the late eighteenth century examined differences and debated the number of races, racial characteristics, and where each race stood on an imagined hierarchy of human development. In a departure from Enlightenment thinkers’ belief of environmental conditions contributing to human development, new theories held that immutable biological distinctions existed between racial groups and that these distinctions were hereditarily transmitted. Many scholars believed that physical appearance, intelligence, character, and behavior were determined by race. Scientists attempted to determine how many races existed—theorizing as few as four and as many as thirty-four—how they were different, and how they fit into the human hierarchy of civilization.

New studies arose around physiological differences. American physician and craniologist Samuel George Morton (1799–1851) studied and categorized more than eight hundred crania to determine the significance of differences in skull size and structure. He concluded that African and Native American skulls were smaller than Caucasian ones, and thus Caucasians must be more intelligent. Josiah Clark Nott (1804–1873) agreed and used this “evidence” to

support white enslavement of people of African descent. He further warned against mixing with “lower” races, which risked debilitating or eliminating the Caucasian race.

Other students of racial science put forth that physical appearance informed character, that the number and depth of convolutions in the brain represented a certain level of intelligence—with Caucasians being the most intelligent—and that physical differences such as skin and hair were the result of the environment. The black skin of Africans, one scientist argued, was a result of carbon absorption in the atmosphere. Another claimed it to be a symptom of noncontagious leprosy. Among the theories that contributed to racial segregation, Morton asserted that whites and blacks were, in fact, separate species, naturally averse to social and sexual mixing.

Due to the emerging popularity of racial determinism and an increasing belief in Native inferiority, white Americans felt little or no inclination to live near or among Indians. The confidence whites had in their own social and intellectual superiority to Native Americans was part of the reason the United States adopted its removal and reservation policies. By keeping Indians isolated and separated from whites, they would have adequate time to acculturate to Anglo-American ways and, more important, white Americans would not be required to live side-by-side with peoples they deemed inferior.

The scientific experiments on the physical distinctions between the races in the nineteenth century became entwined with another intellectual phenomenon, an interest in Anglo-Saxon history and culture. English and American racial theorists held that Anglo-Saxons were a superior race of people who had been the progenitors of representative government and the idea of liberty. Proponents of Anglo-Saxon superiority in the United States believed it was imperative for their nation to preserve this heritage. Anglo-American political leaders in the United States believed that their nation needed to, and was destined to, expand and carry Anglo-Saxon ideals to the west and, ultimately, around the world. By the middle of the nineteenth century many Americans believed their nation had a manifest destiny to expand Anglo-Saxon civilization westward, and the idea of manifest destiny was used to justify acquiring lands in the annexation of Texas (1845), the Oregon Territory (1848), and the Mexican Cession (1848). As Americans fulfilled what they believed to be their destiny, they dispossessed Native Americans and interned them in reservations.

English scientist Charles Darwin (1809–1882) developed the theory of evolution and believed that racial distinctions were minor variations. In his extension of evolution to the social realm, however, he suggested that the progress of the people of the United States was a result of natural selection. Followers of this type of thinking were called Social Darwinists, and they used the theory to promote white racial superiority. English philosopher Herbert Spencer (1820–1903) took natural selection a step further with his theory of “survival of the fittest,” in which he asserted that social evolution would allow for the elimination of undesirable traits. Like Nott, Spencer warned against mixing the races and predicted that nonwhite races were doomed to extinction.

The late nineteenth century also gave rise to the eugenics movement. English scientist Francis Galton (1822–1911) promoted selective reproduction to improve humans, at the same time German biologist August Weismann (1834–1914) developed the germ plasm theory. Germ plasm, material Weismann believed to be separate from other material in the body, possessed embedded hereditary material that was passed down through generations. Backed by Galton’s selective reproduction and Weismann’s germ plasm theory, eugenics supporters asserted that mental, moral, or physical inadequacies, including antisocial or criminal behavior, resided in the germ plasm of certain races. The eugenics movement advocated for prohibiting the reproduction of groups determined to be somehow inadequate.

As the nineteenth century progressed, the U.S. government’s policies became increasingly influenced by new racial theories. Though still promoting assimilation and acculturation, government officials held less to Enlightenment philosophies of raising up the “lesser” races to the heights of Western civilization and more to contemporary theories of racial science emphasizing the biological, and thus permanent, inferiority of other races. These theories were not only used to justify slavery, they were also part of the rationalizations for taking Indian land and keeping Native people locked on reservations.

In the late nineteenth century social scientists began to discredit the theories of racial scientists, and by the latter half of the twentieth century scientists understood that race played no role in determining character or behavior. Eighteenth-century concerns over mixing the races, however, continue to have implications for Native peoples, who, in some cases, must be able to prove their eligibility for tribal membership through blood quantum. Blood quantum is a

concept that requires a certain percentage of Native ancestry to qualify for tribal membership. Based in the institution of slavery, blood quantum was originally used to determine an individual's purity of race and fed into laws restricting rights under the law. As applied to Native peoples, blood quantum in the nineteenth century was in part used by the federal government as a measure to gauge assimilation's progress. "Mixed bloods" were often considered more capable of managing under white society's standards, while "full bloods" were less capable. In the twentieth and twenty-first centuries citizenship in a federally recognized tribe requires that an individual possess a Certificate of Degree of Indian Blood or a Certificate of Degree of Alaska Native Blood. The emphasis on "blood" and "race" in American Indian relations is the legacy of Anglo-European intellectual interest in biological distinction.

See also *Assimilation and Acculturation; Blood Quantum; Civilization Program; U.S. Indian Policy: Congress and the Executive, 1775–1803; U.S. Indian Policy: Congress and the Executive, 1803–1848; U.S. Indian Policy: Congress and the Executive, 1845–1877.*

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BIBLIOGRAPHY

- Adelman, Larry. "Race and Gene Studies: What Differences Make a Difference?" PBS.org. http://www.pbs.org/race/000_About/002_04-background-01-02.htm.
- Berkhofer, Robert F., Jr. *The White Man's Indian: Images of the American Indian from Columbus to the Present*. New York: Knopf, 1978.
- Gossett, Thomas F. *Race: The History of an Idea in America*. 1963. New York: Oxford University Press, 1997.
- Haller, John S., Jr. *Outcasts from Evolution: Scientific Attitudes of Racial Inferiority, 1859–1900*. Urbana: University of Illinois Press, 1971.
- Horsman, Reginald. *Race and Manifest Destiny: The Origins of American Racial Anglo-Saxonism*. Cambridge, Mass.: Harvard University Press, 1981.
- Stanton, William Ragan. *The Leopard's Spots: Scientific Attitudes toward Race in America, 1815–1859*. Chicago: University of Chicago Press, 1960.

Railroads

In the late nineteenth century, railroad construction rapidly changed the face of the American West. The railroads' impact on Native Americans stemmed more from the general changes brought by the construction of the railroads and their role in hastening the settlement and development of the West rather than from any specific government policy. Eastern tribes had largely been displaced or their lands greatly reduced before the great age of railway construction began, so the impact of the railroads upon Native peoples is seen primarily in the trans-Mississippi West.

Early Proposals for a Transcontinental Railroad

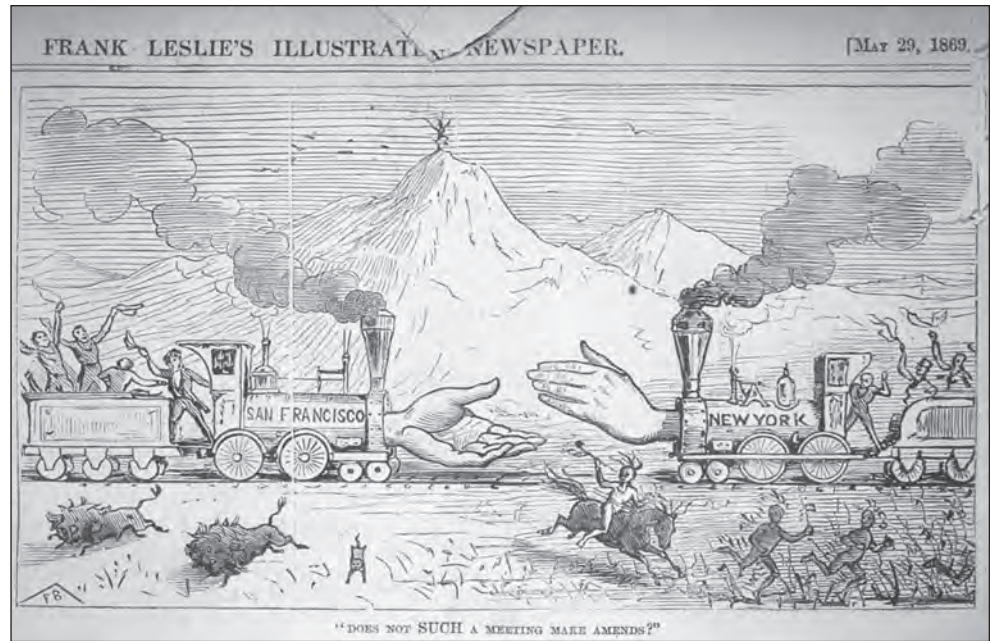
As early as the 1840s, business and political leaders envisioned the possibility of a transcontinental railroad. Before the Civil War (1861–1865), the railroad question often became entangled with the sectional debates, since both the North and the South wanted the first transcontinental route located in their own region. However, because strong, non-pacified tribes remained on the northern Plains and many eastern tribes had been moved into present-day Kansas and Oklahoma, early discussions of a possible railroad route focused on a central location. By 1841 the commissioner of Indian affairs, T. Hartley Crawford, was advocating the creation of two Indian Territories—the existing one (or parts of it) in the South and another in the North, with a band of concentrated white settlement between the two. As travelers began going west on the overland trails, politicians began discussing territorial organization of lands along likely railroad routes, such as the Platte River Valley. There were several proposals for the territorial organization of the Nebraska region in the early 1850s, in order to provide for a transportation corridor through the central Plains.

In 1854 Senator Stephen A. Douglas of Illinois introduced the Kansas-Nebraska Act, which called for splitting those two areas off from the existing Indian Territory and organizing them for eventual statehood. Douglas proposed this with the hope that Chicago might become the eastern terminus of the first transcontinental line. However, such a line could not be built through the Indian Territory, where the land had been promised "forever" to the tribes that had been relocated there from the Old Northwest. As a result of the Kansas-Nebraska Act, Commissioner of Indian Affairs George W. Manypenny negotiated dozens of new treaties in 1854 and 1855 with eastern tribes that had been relocated to Kansas, providing for their second removal into the southern part of the Indian Territory. Other treaties were required in order to get the tribes already established in Indian Territory to give up lands for the resettlement of the Indians from Kansas.

The Pacific Railroad Act

In 1862, while Southern interests were not represented in Congress, the Republicans passed two bills that significantly impacted the settlement of the American West: the Pacific Railroad Act and the Homestead Act. The Homestead Act gave settlers a chance to get 160 acres of government land free if they could make certain improvements on the land and live on it for five years. Although many homesteaders

An illustration of the linking of the transcontinental railroad at Promontary Point, Utah, depicts Indians, in foreground, fleeing. The expansion of the railroads led to the relocation of many western tribes to reservations.



failed to make the necessary improvements on their land, over the course of the late nineteenth century the program created about 800,000 new farms in the West.

The Pacific Railroad Act chartered two corporations, the Union Pacific and the Central Pacific, to build a railroad from Omaha, Nebraska, to Sacramento, California. The railroads received massive amounts of government aid, including loans for every mile of track built, the grant of the actual railroad right of way, and grants of thousands of acres of public land along the route that the railroads could sell in order to recover the costs of construction. The government also promised to extinguish the Indians' title to the lands, which meant that new treaties would be negotiated to get tribal approval for these cessions. This first transcontinental railroad, completed in 1869, received forty-five million acres of government land. By the 1880s the government had given land grants to three other western railroads: the Atchison, Topeka and Santa Fe, which followed the old Santa Fe trail from Kansas City to Santa Fe and then crossed the Southwest to California; the Southern Pacific, which ran along a southern route from New Orleans to California; and the Northern Pacific, which was built across the northern Plains and mountain states from Duluth, Minnesota, to the Puget Sound region. In all, the western railroads that were given land grants received 131 million acres, about 9 percent of the public domain that had existed in 1850.

In the Reconstruction-era treaties concluded with each of the five major southeastern tribes (Cherokee, Chickasaw,

Choctaw, Creek, and Seminole) after the Civil War, the tribes were required to grant railroad rights-of-way for future lines through their lands. This provided for future north-south lines through the remaining portions of the Indian Territory, giving the railroads access to Texas and the Gulf of Mexico.

The Impact of the Railroads on Native Americans

From the start, the government was keenly aware of the impact that the railroads would have on the remaining free-roaming western tribes. The army provided protection for the construction crews as they built, and the crews themselves were often armed for their own defense, yet there were numerous skirmishes with Indians during the construction of the western lines. Most of the fighting occurred along the Union Pacific line in Nebraska, Wyoming, and Colorado. The Indians attacked not only out of revenge for the loss of their lands or in defense of their ways of life, but also because the construction crews often had many supplies that the Indians needed—food, weapons, livestock, and tools. Defending the crews was a huge burden for the army, but military leaders knew that once the railroads were built, the logistics of supplying troops in the West and the rapid movement of forces to trouble spots would be greatly facilitated. There was a clear awareness that the railroads would play a major role in the pacification of the Indians. Serving as general of the army in 1866, Ulysses S. Grant suggested that the completion of the transcontinental railroad would end much of the government's trouble with the Indians. In his 1999

Empire Express, historian David Haward Bain quotes Grenville Dodge, the former Union general and military engineer who was hired to oversee the construction of the Union Pacific, as affirming that, "Our railroad will do more toward taming the Indians than all else combined."

The Indians expressed both fascination and curiosity about the railroads when they first encountered them. Both the Union Pacific and the Central Pacific encouraged Indians to ride the trains frequently, without cost, hoping that their interest in the railroad would forestall troubles. A few Indians were hired by the railroads in various capacities, and along the Union Pacific line, a unit of Pawnee Indians served as guards protecting the construction crews. But Native Americans feared the impact the railroads would have by increasing settlement and development. Even before the railroads, the first settlers on the Great Plains and the travelers on the overland trails were disrupting the lives of the Indians, and many correctly foresaw that this trend would only accelerate with the coming of the railroads. Many Indians feared that the railroads would frighten away game, but an even greater disaster for the tribal peoples was the actual destruction of the buffalo brought on by the railroads. While the lines were being built, large numbers of buffalo were killed to feed the crews and the troops protecting them. But worse was to come with the careless destruction of the buffalo by travelers who shot the animals from the trains for "sport" and left the carcasses to rot. The railroads encouraged this, both because it brought them passengers and because the railroad officials wanted the buffalo removed. The railroads also greatly facilitated the trade in buffalo robes and hides. In the 1870s new tanning techniques were developed for making leather from buffalo skins, and this greatly increased the slaughter of the buffalo. Hide hunters did not have to be concerned with the quality of the fur on the buffalo, so they could hunt year-round. Many towns on the western Plains became major depots of the hide trade, and within an amazingly short time, the buffalo had virtually disappeared. When the buffalo were gone, early settlers earned a little cash by picking up the buffalo skeletons and shipping them via railway to eastern processors where the bones were made into fertilizer and other products.

The railroads brought settlers to the West in massive numbers. Between 1860 and 1890, the amount of cultivated land in the United States more than doubled, from 189 million acres to 414 million acres, with much of this growth in the Great Plains region. During the same period, the last free

western tribes were confined to reservations, and the reservations themselves were surrounded and encroached upon by white settlers. As the Indians had feared and the government had anticipated, the railroads had played a major role in ending the traditional ways of life of the western tribes.

See also *Buffalo*; Crawford, T. Hartley; Grant, Ulysses S.; *Homestead Act of 1862*; Manypenny, George W.; *Reservations*; *Westward Migration*.

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BIBLIOGRAPHY

- Ambrose, Stephen. *Nothing Like it in the World: The Men Who Built the Transcontinental Railroad, 1863–1869*. New York: Simon and Schuster, 2000.
- Andrist, Ralph K. *The Long Death: The Last Days of the Plains Indians*. New York: Collier Books, 1969.
- Bain, David Haward. *Empire Express: Building the First Transcontinental Railroad*. New York: Penguin Books, 1999.
- Lubetkin, M. John. *Jay Cooke's Gamble: The Northern Pacific Railroad, the Sioux, and the Panic of 1873*. Norman: University of Oklahoma Press, 2006.
- Miner, H. Craig, and William E. Unrau. *The End of Indian Kansas: A Study of Cultural Revolution, 1854–1871*. Lawrence: The Regents Press of Kansas, 1978.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Williams, John Hoyt. *A Great and Shining Road: The Epic Story of the Transcontinental Railroad*. New York: Times Books, 1988.

Rancherias

Dotting California's indigenous geography, rancherias are small land bases that the federal government purchased and set aside for "homeless" California Indians in the early twentieth century. The rancheria system responded to humanitarian concerns from the late nineteenth and early twentieth centuries for California Indians in particular and American Indians in general. These small Indian communities have had a tumultuous political and economic history. While some rancherias formed tribal governments under the auspices of the Indian Reorganization Act, federal and state officials targeted them for termination during the 1950s and early 1960s. Today, many rancherias that survived termination or regained recognition have taken advantage of gaming and secured economic benefits for the community and their members.

Between 1860 and 1906, most California Indians lived away from the state's reservations. They did so to escape poverty, corrupt administrators, and poor health conditions. These off-reservation California Indians, numbering thir-

teen thousand by 1906, integrated into local market economies by performing seasonal agricultural labor, working on ranches, and participating in traditional hunting and harvesting activities. But they still maintained familial and cultural ties to home communities.

In the late nineteenth and early twentieth centuries, humanitarians like Paiute writer Sarah Winnemucca and noted muckraking author Helen Hunt Jackson conducted speaking tours that revealed the poverty and tragic history of California's indigenous population. The Indian Rights Association took on the cause of California Indians and advocated assimilation and improved health services. Though the Indian Rights Association's campaign was paternalistic, and dismissive of Native cultural practices, it still raised awareness of desperate conditions across Indian Country, including California.

Following a 1906 report detailing the conditions endured by "homeless" Indians in California, the federal government authorized money to purchase land for them. The federal government created fifty-four rancherias in the state between 1906 and 1934 and five since that time. In some instances, the rancherias placed the lands that Indians had previously purchased for themselves under federal trust protection.

Although the rancheria system stabilized Native land holding in California, significant problems remained. In a 1917 ruling stemming from questions about Indian eligibility for the military draft, the California Supreme Court, in *Anderson v. Mathews*, ruled that rancheria Indians were "born citizens of the United States." This created a legal distinction between rancheria Indians and most Natives living on reservations elsewhere in the United States. Moreover, because rancherias were residential areas, most covering between five and one hundred acres, they lacked the land base and resources necessary for economic development programs.

Although several rancherias created their own constitutions and corporate charters under the Indian Reorganization Act (1934), they were vulnerable during the era of termination. Beginning in the early 1950s, the federal Bureau of Indian Affairs transferred health care and law enforcement for rancherias to the state of California. In 1958 the California Rancheria Termination Act led to the dissolution of 40 rancherias by privatizing lands and withdrawing federal programs. As a result of termination, California Indian rancherias lost 5,000 acres of land.

Since the 1970s, rancherias have taken advantage of the era of self-determination. In 1979 Tillie Hardwick, a mem-

ber of the terminated Pinoleville Rancheria, sued the United States over termination. The U.S. federal courts ruled in Hardwick's favor and the federal government restored the rancheria's status. This suit eventually led to successful recognition petitions from seventeen terminated rancherias. Moreover, several rancherias took advantage of Indian gaming to create entirely new economic enterprises. Gaming profits allowed rancherias to build housing for rancheria members and fund health care facilities and schools. Many rancheria governments also use gaming money to launch other economic endeavors. The Rumsey Band of Wintun Indians, for example, purchased non-gaming businesses and land in Sacramento, California, and Springfield, Illinois. While they began as an effort to provide land for "homeless Indians," rancherias have weathered the shifts of federal Indian policy in the late twentieth century. Rancherias and their members fought termination and have been active participants in the emergence of self-determination and Indian gaming. Today, they exist as some of the wealthiest Indian communities.

See also *California Indians; Gaming; Indian Reorganization Act (1934); Jackson, Helen Hunt; Mission Indians; Termination and Restoration; Winnemucca, Sarah.*

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BIBLIOGRAPHY

- Heizer, Robert F., ed. *Handbook of North American Indians: California*. Washington, D.C.: Smithsonian Institution Press, 1978.
- Hurtado, Albert L. *Indian Survival on the California Frontier*. New Haven: Yale University Press, 1988.
- Rawls, James J. *Indians of California: The Changing Image*. Norman: University of Oklahoma Press, 1984.
- Rumsey Indian Rancheria, <http://www.rumseyrancheria.org>.

Ranching

Ranching is one of the main economic activities on many Indian reservations today. While especially true for the arid regions west of the Missouri River, many Indian tribes—from the Seminoles in Florida to tribes in California—also have substantial cattle ranching economies. Tribes have developed buffalo ranching operations as well. In the Southwest, sheep ranching has been part of Native cultures for hundreds of years.

According to the 2002 U.S. Census of Agriculture, 42,304 Native American farm operators are managing 29,189 farms, of which 13,289 raise beef cows and 1,381 raise sheep; 11,122 Native American farms are devoted to raising

hay and other forage. Of the 56.8 million acres of land operated by American Indians, only 4.1 million acres are designated as cropland. Although the census reports only the number of Native American farm operators and not those who work on farms and ranches, these numbers demonstrate the importance of ranching in Indian Country.

Ranching as an economic activity depends on domesticated, or at least feral, animals. Native American societies such as the Navajos developed their ranching economies without direct Euro-American interference. The Plains tribes, for example, developed horse herds containing tens of thousands of animals. Although these horses were not primarily kept for meat, they are evidence that some principles of pastoralism were developed by Native peoples before the arrival of Europeans.

By the mid-nineteenth century, most Native American tribes had become familiar with ranching. If they did not participate in the ranching economy by owning ranches themselves or by working for non-Native ranchers, they at least participated by occasionally raiding ranches, picking up stragglers from cattle drives, and taking cattle from the open range. On the unfenced plains, cattle not only transmitted diseases to native animals, but competed for grass with buffalo and horses. The growing cattle industry in the West thus encroached on the lands of the American Indian nations.

While Indian reservations were being established on the plains, the ranching industry was losing access to open range and losing lands to farming interests. The Homestead Act of 1862, which was geared to agriculture, not ranching, offered Americans the opportunity to graze cattle on reservation lands. The General Allotment Act of 1887 (Dawes Act), however, opened new doors for American ranchers as surplus lands on reservations became available. Meanwhile, the small private parcels allotted to American Indians were not sufficient for tribal members to build ranching enterprises. On many reservations, allotment resulted in the failure of promising tribal ranching operations.

On those reservations that escaped allotment altogether or were allotted in the twentieth century, reservation land was leased to outside ranching corporations. On some reservations, the Office of Indian Affairs (OIA, later Bureau of Indian Affairs, BIA) leased hundreds of thousands of acres to these industrial ranching businesses, most often for minimal grazing fees. As a result, instead of being able to build their own ranching enterprises, tribes had to watch the “outside cattle” grazing their reservations. Many reservations experienced further losses of ranch lands during World War I, when

agricultural improvement plans that emphasized industrial farming enjoyed higher wheat prices.

Ecological and Cultural Impacts of Ranching

The ecological effects of ranching have largely stemmed from overstocking and overgrazing. Because of the growing competition and the less land available for ranching, many ranching operations overstocked their grazing lands, especially the leased public and reservation lands. Combined with the severe droughts and other factors, the overstocking of lands contributed to the Dust Bowl years of the early 1930s. The Office of Indian Affairs, with its new commissioner, John Collier, addressed the issue in two ways. In 1934 Collier's allies in Congress passed the Indian Reorganization Act (IRA), which ended the government's efforts to allot Indian land and, in Section 6, introduced the concept of sustained yield management. The IRA gave the secretary of the interior the power to regulate grazing on reservations, to prevent range deterioration and erosion, and “to assure full utilization of the range.” Those same principles, which were repeated in the American Indian Agricultural Resource Management Act of 1993 (AIARMA), were introduced nationally in the Taylor Grazing Act, which affected those American Indians who owned and managed rangelands outside reservation boundaries.

The IRA also gave the Department of the Interior the power “to restrict the number of livestock grazed on Indian range units to the estimated carrying capacity of such ranges.” Collier thus installed livestock reduction programs on many reservations. In the most infamous of these programs, tens of thousands of sheep were killed on the Navajo reservation to deal with the problems of overgrazing and soil erosion. Navajo anger about the stock reduction program and the destruction of their economy led them to reject the OIA's efforts to persuade them to adopt an IRA tribal constitution. Thus although these programs reduced grazing pressures, they also alienated tribal ranchers because the programs were often carried out forcefully and with no prior consultation with the tribe.

In the wake of the Dust Bowl, many outside cattle interests gave up their leases, thereby improving opportunities for tribal ranchers. With the end of allotment and the return of surplus lands to reservation governments, tribes now owned a sometimes substantial land base that they could offer for lease to Native ranchers. Under the New Deal policies of the 1930s, the Indian Civilian Conservation Corps also began to improve the ranching infrastructure, building roads, struc-

tures, and dams for irrigation. Some of these new dams displaced other tribes that relied on rivers and fishing for their subsistence. After World War II, tribal ranching operations appeared to be recovering and expanding. In the 1950s and 1960s on the northern plains, tribal ranching operations and tribal societies dependent on them suffered when the Pick-Sloan Plan for the control of the Missouri watershed was implemented. In order to control water flow in the Missouri River, the government built several large dams. The dams created huge lakes that flooded the most valuable lands of several reservations. Despite restoration programs, the loss of shelter in wooded areas, as well as the expense of relocating ranches and towns, could not be remedied.

The years between the establishment of reservations in the mid-nineteenth century and the 1940s saw the ranching culture become entrenched in many reservations, at times replacing the traditional cultures. Many Indians in the West, as Peter Iverson pointed out in his 1994 study, had long ago become cowboys. Because the government encouraged Indians to farm rather than to ranch, ranching became a form of resistance, of remaining true to the land and the culture. Ranching also brought another activity to reservations, one in which many Native Americans excelled: the rodeo. Rodeo riding was a way to continue the traditional competitive quest for status, while successful ranchers could enhance their status by giving away their cattle and caring for the people.

Within the cattle culture, Indians' traditional ecological knowledge of the range was often replaced by scientific ranch management methods. Today, many Indian ranchers approach the land and their animals the same way that non-Indian ranchers approach their business operations. For example, they feed animals corn before slaughter, try to eliminate prairie dogs, and dehorn their animals.

Contemporary Issues

Today, many tribes and tribal members run exceptionally well-managed cattle ranching operations. The success of these enterprises is often directly attributable to tribal sovereignty over tribe-owned lands. When tribes can set their own goals in accordance with local environments and cultural expectations on economic success and management style, more often than not they are successful.

Overgrazing remains an important issue on reservations, especially during droughts. On reservations whose economies heavily depend on ranching, especially where much of the land is trust land managed by the BIA, success-

ful ranchers are often able to exert political pressure on tribal governments and BIA officials to refrain from lowering the grazing limits. During drought years, overgrazing leads to processes of desertification that in the long term are extremely harmful to these economies.

Water rights have also become an increasingly important issue, especially in the arid West and Southwest. Ranching is possible only with adequate water supplies, and because more water is being diverted to the growing cities in these regions, water rights have become one of the most important issues for tribes.

Although allotment ended in 1934, the consequences of allotment policies continue to affect Native American tribes. Over the generations, many of the land parcels have been so severely subdivided through inheritance (often referred to as fractionation) that tribal governments have to lease the land and divide the lease money among the heirs in order to make any economic use of it. Through the American Indian Agricultural Resource Management Act of 1993, the American Indian Probate Reform Act of 2004, and the Indian Land Consolidation Act of 1983 (amended in 2000), Congress has attempted to ease the problem of fractionation. Innovative tribal initiatives have emerged as well. These initiatives, however, will require funding and time to become truly effective.

With the division of ranges among a multitude of owners, jurisdictional checkerboarding of reservation lands, and the federal oversight of many of these ranges under the trust system, another issue that plays back into overgrazing is stewardship. Because of the confusing bureaucratic hierarchy that precedes decisions about these lands, it is hard for individuals to take responsibility for the range. Separate units of rangeland may fall under different rules and laws, making good environmental management more difficult. Often, the BIA simply takes too long to respond to local or regional issues that need immediate attention. For example, BIA checks often arrive months after the rancher had to spend the money, and decision-making processes frequently take too long for business deals to succeed. Moreover, ranches on trust lands are hard-pressed to obtain lines of credit. Trust lands also fall under a variety of federal acts, which potentially involve several federal agencies in decisions on land use, sales, and leases.

Native American ranching, like non-Indian ranching, is also integrated into global processes and thus influenced by the global market economy. Ranching on Indian reservations has, however, withstood some of these pressures better.

For example, there is a trend toward smaller ranches on reservations, while off-reservation ranches are often more industrialized. A possible explanation is that many Native American ranchers do not primarily ranch for economic profits; rather, they ranch to have contact with the environment and maintain the ranching lifestyle for cultural reasons.

See also *Buffalo; Bureau of Indian Affairs; Collier, John; Indian Reorganization Act (1934); Rancherías; Ranch Management; Reservations.*

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BIBLIOGRAPHY

- American Indian Policy Review Commission. *Task Force Seven: Reservation and Resource Development and Protection*. Washington, D.C.: Government Printing Office, 1976.
- Baillargeon, Morgan. *Legends of Our Times: Native Cowboy Life*. Seattle: University of Washington Press, 1998.
- Carrier, Jim. *West of the Divide: Voices from a Ranch and a Reservation*. Golden, Colo.: Fulcrum Publishing, 1992.
- Donahue, Debra L. *The Western Range Revisited: Removing Livestock from Public Lands to Conserve Native Biodiversity*. Norman: University of Oklahoma Press, 1999.
- Hosmer, Brian, and Colleen O'Neill, eds. *Native Pathways: American Indian Culture and Economic Development in the Twentieth Century*. Boulder: University Press of Colorado, 2004.
- Indian Reorganization Act*, Public Law 73-383, 73rd Cong., 2nd sess. (June 18, 1934).
- Iverson, Peter. *When Indians Became Cowboys: Native Peoples and Cattle Ranching in the American West*. Norman: University of Oklahoma Press, 1994.
- Lawson, Michael L. *Dammed Indians. The Pick-Sloan Plan and Missouri River Sioux, 1944-1980*. Norman: University of Oklahoma Press, 1994.
- Mellis, Allison Fuss. *Riding Buffaloes and Broncos: Rodeo and Native Traditions in the Northern Plains*. Norman: University of Oklahoma Press, 2003.
- Starrs, Paul F. *Let the Cowboy Ride. Cattle Ranching in the American West*. Baltimore: Johns Hopkins University Press, 1998.

Ranch Management

Among many Indian people, the care of livestock has been an integral part of both their economy and their culture. Stock in the form of horses, cattle, sheep, and pigs came to America with the first European settlers, but the herding and raising of animals predated their arrival. When Europeans arrived with their animals, they had many problems keeping them penned. The vastness of the American landscape presented European herders with the prospect of recovering escaped animals. By “discovering” escaped animals and launching raids against European settlements, Indians acquired livestock. Additionally, on rare occasions, Europeans

gave Indians stock as part of their negotiations or in an effort to win support from one Indian group over another. Missionaries in the American Southwest encouraged their Indian converts to keep cattle and sheep as part of a program designed to bring Indians into the Spanish cultural milieu.

Although many Indian people believed that land could not be owned, such was not the case for other possessions, such as livestock. Indians took great care to exercise control over their livestock; nothing was guarded more closely than Indian herds. Ownership may not have rested with a single individual but rather with the tribe or a specific clan, but it was ownership nonetheless. Once Indians were forcibly removed to reservations, livestock offered a quick way for people to develop new identities or to maintain older, traditional forms of cultural identity. In some cases, such as with the Navajos, stock-raising was not new to reservation inhabitants. In others, herding and ranching was an entirely new experience for the Indians brought to reservations by federal mandate.

Many federal policy makers argued that encouraging ranching among the Indians was the answer to protecting tribal sovereignty, keeping whites out of Indian lands, and providing a transition from nomadic hunting to agricultural production. Among the five major southeastern tribes in the Indian Territory—the Cherokees, the Chickasaws, the Choctaws, the Creeks, and the Seminoles—successful ranching was expected to lead to the development of Indian-owned railroads and supply enough income to allow the various tribes to be self-sufficient. Such ambitious results never materialized. Cattle ranching among the Seminoles of Oklahoma, however, was so successful that one person commonly ran twenty thousand head of cattle. Among the Cherokees there was hope that the vast Cherokee Outlet (the Oklahoma panhandle) would produce a Native-owned and -operated cattle industry.

Raising Livestock

The Navajos may perhaps serve as the best example of the importance of ranching to Indian people. After being pushed to their reservation in 1868, the Navajos took steps to increase their land holdings and their flocks of sheep. The Navajos had raised sheep since their first contacts with the Spanish, and they now saw the herds as a way to maintain their cultural identity. The thriving Navajo herds were hailed by the federal government as a sign of progress and an indication that the Navajos would soon join the American economic system. Problems of overgrazing, however, led to mas-

sive soil erosion across the reservation. The Navajos' land base reached its carrying capacity and expansion was no longer an option; the number of sheep on the reservation, however, continued to grow. In the 1930s the Navajos were forced to undergo a massive stock reduction program. Under this program, federal authorities destroyed nearly 10 percent of all Navajo sheep. The Navajos vehemently objected to the reductions, but the federal government would not stop the program. Despite their losses, the sheep allowed the Navajos to rebuild their broken economy, but more important, provided a cultural touchstone to previous generations.

On the Great Plains livestock raising has a long history. For centuries Native big game hunters herded buffalo in order to stampede them off of nearby cliffs—the hunters only had to gather the meat. When Europeans moved onto the Plains, they commenced the slaughter of the buffalo. The systematic destruction of the buffalo, however, did not end the Plains Indians' ventures into ranching. Hunting from horseback took the place of the buffalo run-off, and thus the acquisition and care of horses became a central aspect of Plains Indian culture, both on the northern and southern Plains. The maintenance of a large horse herd became a sign of tribal strength and a conspicuous display of personal prowess for the owner of the majority of the horses. Once Plains Indians were forced onto reservations, some Indian agents sought to introduce cattle ranching to Indian people who had raised horses for centuries.

Among the tribes of the southern Plains, the Kiowa-Comanche-Apache reservation in southwest Indian Territory serves as an example of people who met with varying degrees of success in managing their own ranching operations. Among the Comanches, Quanah Parker led the way to the development of a successful ranching operation. Comanche Indian agent James Haworth attempted to launch a ranching experiment in the first three years after establishing a reservation. The Comanches were reluctant to adopt ranching, and agents treated ranching as a temporary stop on the road to farming. In 1885, however, Comanche crops were decimated by drought. Agent P. B. Hunt decided that the only way to ensure Comanche survival was to pursue cattle ranching. Hunt purchased a number of animals, but the Comanches either killed them or sold them to white ranchers in order to buy food. Although tribal ranching failed, Comanche leaders, specifically Parker, amassed large herds. Parker was placed on the payroll of a Texas cattle company. In return for his efforts among the Comanches, Parker was paid five hundred head of cattle. Among the Apaches,

Indian agents negotiated with important leaders to develop the Apache livestock association, which was later headquartered on the Mescalero Apache reservation in New Mexico.

On the northern Plains, Indian ranchers directly competed with white ranchers for grazing lands. Whites often argued that the "West" was a destination; for Indian people, the region was simply "home." Both sides wanted to increase the land they could use to raise their herds. In the end, white landowners increased their pasture base and their demands resulted in the passage of the General Allotment Act (1887), or Dawes Act, which divided Native lands into plots intended for individual ownership. Undaunted, numerous Sioux reservations developed their own cattle ranching operations, as did the Blackfeet, Crows, Northern Cheyennes, and Gros Ventres. The ranching success of these tribes was achieved despite the federal government's best efforts to force agriculture onto Plains people. In other cases, some Indians went to work as cowboys for white ranchers. Perhaps the most successful Indian ranching operations on the northern Plains can be found among the Northern Cheyennes. In the mid-2000s, their cattle ranching operation continued to provide steady income for the tribe.

Success and Conflict

Since the 1920s many Indian ranchers have developed a close alliance with white ranchers because their shared outlook on issues from environmental impact to keeping the price of beef high has been a uniting force. Successful ranch management continues to provide for the economic stability of many tribes.

In other cases, such as with the Western Shoshones, ranching has proved a source of conflict. In 1863 the federal government signed a peace treaty with the Shoshones granting them acreage across the Nevada deserts. During the 1970s the government acknowledged that it had encroached on the land and awarded the Western Shoshones \$26 million, which the tribe refused. Shoshone ranchers Mary and Carrie Dann ranched this land and entered into a legal battle with the Bureau of Land Management (BLM), which marked the land for mining and storing nuclear waste. For thirty years, the Dann sisters have fought the government, claiming that the land belongs to the Western Shoshones and is not under BLM control. In 1978 the Ninth Circuit Court of Appeals decided an appeal in favor of the sisters, but in 1985 the Supreme Court in *United States v. Dann*, 470 U.S. 39, overturned the decision, stating that the \$26 million, though still unclaimed, constituted payment for the contest-

ed acreage. Federal agents in September 2002 seized the sisters' cattle and horses and again charged them with trespassing on public lands, levying a fine of \$3 million. The Dann Sisters have become legends both to Indian and non-Indian ranchers.

See also *Allotment in Severalty; Buffalo; Dann Sisters; Grazing Rights; Ranching; Reservations.*

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BIBLIOGRAPHY

- Iverson, Peter. *When Indians Became Cowboys: Native Peoples and Cattle Ranching in the American West*. Norman: University of Oklahoma Press, 1994.
- Leahy, Todd. "Beef Instead of Bayonets: Cultural Mores and the Failure of Assimilation on the Kiowa-Comanche Reservation." *The Chronicles of Oklahoma* 60, no. 2 (Winter 2005): 490–499.
- Miner, H. Craig. "The Dream of a Native Cattle Industry in Indian Territory." In *Ranch and Range in Oklahoma*, edited by Jimmy M. Skaggs. Oklahoma City: Oklahoma Historical Society, 1978.
- Savage, William W., Jr. "Indian Ranchers." In *Ranch and Range in Oklahoma*, edited by Jimmy M. Skaggs. Oklahoma City: Oklahoma Historical Society, 1978.
- White, Richard. *It's Your Misfortune and None of My Own: A New History of the American West*. Norman: University of Oklahoma Press, 1991.

Reagan, Ronald

Ronald Reagan (1911–2004) was the fortieth president (1981–1989) of the United States. Born in Illinois, he moved to California in the 1930s to become an actor and began his political career when he became president of the Screen Actors Guild. A Republican, Reagan served two terms as governor of California (1967–1975) before being elected president in 1980 and serving for two terms. He played a pivotal role in shifting U.S. government policies toward free market economics and federal deregulation. Part of the so-called Sagebrush Rebellion, a conservative political movement in the West against what its followers believed were excessive federal environmental regulations, Reagan sought to dismantle public safety nets and business regulations and reinvest heavily in the military, a strategy that prompted an arms race that, some maintain, led to the collapse of the Soviet Union.

Reagan's approach to federal Indian policy was influenced by the Sagebrush philosophy. During his presidential campaign, Reagan promised to honor the principle of self-determination that had been the cornerstone of U.S. Indian policy since the 1960s. After he took office, however, Reagan reframed the fiduciary aspects of the federal trust responsi-

bility toward American Indians variously as a form of socialism or social welfare. In place of the federal trust and treaty obligations that had historically funded health, education, and other infrastructure of reservation communities, Reagan posited the free market as the framework for the political and economic liberation of Indian nations.

Reagan's 1984 Presidential Commission on Indian Reservation Economies asserted that tribes could move toward self-sufficiency if they privatized tribal enterprises and kept tribal governments from interfering with the free market on reservations. Reagan's drastic cuts in federal monies for Indian tribes affected a "structural adjustment plan" for Indian Country that was called "neo-termination" by some Indian activists, harkening back to the federal efforts to end tribal existence and federal support for Indian programs in the 1950s. Over the course of Reagan's tenure, the amount of tribal land used by Indians for agricultural purposes decreased while non-Indian use of tribal land increased. Several social and health programs that affected Indians suffered severe cuts during Reagan's administration.

In 1988 Reagan signed the Indian Gaming Regulatory Act (IGRA), which gave states greater influence in tribal economic development but paved the way for Indian gaming enterprises. Gaming, Reagan accurately predicted, would provide many tribes with a means for economic self-sufficiency.

See also *Gaming; Indian Gaming Regulatory Act; Self-Determination; U.S. Indian Policy: Congress and the Executive, 1960–*

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BIBLIOGRAPHY

- Cook, Samuel R. "Ronald Reagan's Indian Policy in Retrospect: Economic Crisis and Political Irony." *Policy Studies Journal* 24, no. 1 (March 1996): 11–26.

Red Cloud

Red Cloud (c. 1822–1909), also known as Mahpiya Luta or Makhpiya-Luta, was an Oglala Lakota (Sioux) born in western Nebraska. His fighting skills propelled him to wartime leadership in conflicts with Crow and Pawnee enemies.

In the 1860s Red Cloud became involved in the conflict over the Bozeman Trail. The U.S. government wanted the Lakota Sioux and Cheyennes to allow wagon trains to use the trail to access the Montana gold fields. However, the Lakotas did not want settlers and migrants entering their territory. When the U.S. Army began to build three forts along

the contested trail without the agreement of Red Cloud and other Indian leaders, war began. Lakotas, Northern Cheyennes, and Northern Arapahos began attacking wagon trains passing along the Oregon and Bozeman trails. Known as Red Cloud's War (1865–1868), this conflict was highlighted by an Indian victory that saw two thousand Native warriors dispatch U.S. Army captain William Fetterman and seventy-nine of his men in what became known as the Fetterman massacre. After a series of battles, the federal government sent peace commissioners to resolve the situation. Red Cloud and other chiefs agreed to peace in the Treaty of Fort Laramie, which established the Great Sioux reservation, but only if the government abandoned the Bozeman Trail forts. When the army withdrew, the Indians burned the forts and Red Cloud signed the treaty.

After the settlement of the treaty, Red Cloud proved to be skilled at diplomacy, and the U. S. government considered him the main chief of the Oglalas. In 1870 he traveled to Washington, D.C., to meet with President Ulysses S. Grant. (Over the years, he made fourteen trips to Washington.) In New York he spoke at the Cooper Union and announced his desire for peace. However, conflict soon engulfed the Lakotas again when gold was discovered in the Black Hills, located in the Great Sioux reservation. Troops under George Armstrong Custer entered the Black Hills to confirm reports of gold; they were soon followed by hundreds of miners. In response, the Lakotas and other tribes attempted to prevent the incursions. Red Cloud, however, did not join with Sitting Bull, Crazy Horse, and other leaders in fighting against encroaching American settlers, instead advocating peace. He was unable to persuade his young men from participating in the war, however, and his son and several of his band participated in the destruction of Custer's army at the Battle of Little Bighorn (June 25, 1876). Government officials accused Red Cloud of being complicit in the Indian victory. After defeating the tribes in the area, the U.S. government pressed the Sioux to remove to the Indian Territory (in what is present-day Oklahoma), but Red Cloud refused. However, threatened with the loss of necessary supplies and facing starvation, Red Cloud and a minority of the Lakotas agreed to relinquish the Black Hills in 1877, an action that fostered a legal dispute that has continued into the early twenty-first century. Red Cloud and the Oglalas relocated to the newly established Pine Ridge reservation in 1878.

Red Cloud did not embrace the ideas of the Sioux becoming farmers and attending school, although he even-

tually became a Roman Catholic late in his life. His views, coupled with a personality conflict, led to a feud with Pine Ridge agent Valentine McGillicuddy, and in 1886 Red Cloud succeeded in having McGillicuddy removed. Red Cloud's remaining influence with his tribe members deteriorated because of his opposition to the Ghost Dance movement. Again, he counseled peace when the younger Lakotas wanted war. Red Cloud's ambiguous response to the movement cost him tribal support while eliciting charges of duplicity from the U.S. government. Red Cloud died in his house on Pine Ridge in 1909.

See also *Black Hills*; *Bozeman Trail War (1865–1868)*; *Custer, George Armstrong*; *Fetterman Massacre*; *Fort Laramie (1868)*, *Treaty of*; *Indian Territory*; *Little Bighorn (1876)*, *Battle of*; *McGillicuddy, Valentine T.*

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BIBLIOGRAPHY

- Hyde, George. *Red Cloud's Folk: A History of the Oglala Sioux Indians*. Norman: University of Oklahoma Press, 1937.
- Larson, Robert W. *Red Cloud: Warrior-Statesman of the Lakota Sioux*. Norman: University of Oklahoma Press, 1997.
- Olson, James C. *Red Cloud and the Sioux Problem*. Lincoln: University of Nebraska Press, 1965.
- Paul, R. Eli, ed. *Autobiography of Red Cloud: War Leader of the Oglalas*. Helena: Montana Historical Society Press, 1997.
- Utey, Robert M. *The Indian Frontier of the American West, 1846–1890*. Albuquerque: University of New Mexico Press, 1984.

Red Cloud's War

See *Bozeman Trail War (1865–1868)*.

Red River War (1874–1875)

The Red River War was a series of clashes between the U.S. Army and tribes of the southern Plains—the Kiowa, Comanche, Southern Cheyenne, and Southern Arapaho—that lasted from June 1874 to the spring of 1875.

Tensions arose from an accumulation of factors. The Treaty of Medicine Lodge Creek (1867) stipulated that rations would be supplied to the tribes after they ceded the bulk of their land and moved to reservations that would be protected from settler encroachment. However, supplies were often incomplete, delayed, or never received, and American outlaws often entered Indian Territory and stole Indian stock. In addition, organized groups of professional buffalo hunters used Dodge City, Kansas, as a base from which to annihilate the vast herds on Indian reservations.

Despite the efforts of the two regional Indian agents, the military was unable or did not try to exclude settlers from trespassing on Indian land.

Isa-tai, a Comanche medicine man, and Quanah Parker, a young Comanche war leader, pressed the case for resistance and led a band of some seven hundred warriors from all four tribes to attack a buffalo hunter's camp—they believed the buffalo hunters were the most responsible for directly damaging the Indian way of life. From June 27 to July 1, 1874, the warriors besieged a trading house at Adobe Walls in the Texas panhandle.

Not all of the Indians within each tribe supported the attacks, notably Kiowa chief Kicking Bird, who led a large group that stayed on the reservation. Another Kiowa chief, Lone Wolf, recruited a relatively small number of warriors to continue the offensive with those from the other tribes, and the skirmishes spread across Texas, Kansas, and the Indian Territory.

Gen. Ulysses S. Grant gave Gen. William T. Sherman and Lt. Gen. Philip H. Sheridan the task of quelling the uprising. Those Indians who did not seek conflict were registered at the reservation agency and confined for the duration of hostilities, provoking some unrest. The army then commenced a sweep across the region, using five columns of troops approaching from different directions to clear the area for the safety of American settlers.

General Sheridan claimed that the multipronged encirclement and subsequent constriction of tribes across the Texas panhandle and upper Red River was the most successful Indian campaign in the nation's history. Up to twenty confrontations occurred during the Red River War, the majority of which were short skirmishes involving relatively few people. The more significant battles included those of Red River, Sweetwater Creek, and Palo Duro Canyon. This last battle, fought on September 28, 1874, was one of the defining moments of the war because Lone Wolf (Kiowa), Iron Shirt (Cheyenne), and Poor Buffalo (Comanche) fell to a U.S. military force that burned villages, slaughtered over a thousand horses and ponies, and destroyed entire winter food supplies, compelling many of the Natives to reluctantly move back to the reservations.

The remaining resisters found it increasingly difficult to fight through the winter and spring of 1874–1875; they had to contend with the arrival of more U.S. troops and bad weather, which led many to return to the reservations. Quanah Parker was one of the last to surrender, at Fort Sill in Indian Territory, on June 2, 1875.

The ongoing enforced relocation of the tribes from the southern Plains to reservations in the Indian Territory opened their land to white settlers and ushered in an era of ranching. This scenario would be repeated a few years later on the northern Plains when the military pursued tribes, destroying camps and livestock, in the aftermath of the defeat of the Seventh Cavalry at Little Bighorn.

See also *Buffalo*; Grant, Ulysses S.; *Little Bighorn (1876)*, *Battle of*; *Medicine Lodge Creek (1867)*, *Treaty of*; Parker, Quanah; Sheridan, Phillip; Sherman, William T.

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BIBLIOGRAPHY

- Haley, James L. *The Buffalo War: The History of the Red River Indian Uprising of 1874*. Garden City, N.Y.: Doubleday, 1976.
 Leckie, William H. *The Military Conquest of the Southern Plains*. Norman: University of Oklahoma Press, 1963.

Red Stick War

See *Creek Civil War (1813–1814)*.

Reifel, Benjamin

Ben Reifel (1906–1990), commissioner of Indian affairs from 1976 to 1977, was the only American Indian serving in Congress during the 1960s. He was a Brule Sioux and was born and raised on the Rosebud Sioux reservation. Shortly after graduating from South Dakota State University, he began working for the Bureau of Indian Affairs (BIA) on the Pine Ridge reservation. Reifel helped the Pine Ridge Sioux participate in several New Deal programs. He was a proponent of the 1934 Indian Reorganization Act, and because of his work several Sioux tribes utilized the act's provisions. In 1946 he became superintendent of Fort Berthold reservation in North Dakota, where he oversaw the process of relocating Indians displaced by the Garrison Dam. He enrolled at Harvard University in 1949 and received a doctorate in public administration in 1952. During the early 1950s, Reifel served on the executive council of the National Congress of American Indians. In 1954 the BIA appointed him superintendent at Pine Ridge, which was the second-largest superintendency in the nation. The following year, he became director of the Aberdeen Area Office in South Dakota, which provides health care to Indians in the region.

In 1960 South Dakotans elected Reifel, a Republican, to the U.S. House of Representatives, and during his term he sat on the Appropriations Committee. During this time he

was also national president of ARROW, Inc., an Indian service organization. He resigned from Congress in 1971, after five terms, and moved on to work as president of the American Indian National Bank. In late 1976 he accepted an assignment from President Gerald Ford to serve as interim head of the BIA until President Jimmy Carter asked him to step down the following January. He died in South Dakota at the age of eighty-three.

See also *Bureau of Indian Affairs; Indian Reorganization Act of 1934.*

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BIBLIOGRAPHY

- Painter, John S. "Transitional Sioux Leader: Benjamin Reifel." In *South Dakota Leaders: From Pierre Chouteau, Jr., to Oscar Howe*, edited by Herbert T. Hoover and Larry J. Zimmerman, 331–354. Vermillion: University of South Dakota Press, 1989.
- Smith, Michael T. "Benjamin Reifel." In *The Commissioners of Indian Affairs, 1824–1977*, edited by Robert M. Kvasnicka and Herman J. Viola, 347–348. Lincoln: University of Nebraska Press, 1979.

Religious Freedom

Until recently, U.S. Indian policies have had a devastating impact on the religious freedom of American Indians. The culture of an Indian community is often solidly intertwined with its language, land, traditions, ways of life, and religion. Past federal policies that called for the acquisition of Indian land and forbade the use and preservation of Native languages often undermined Indian religions and, therefore, Indian cultures. Federal Indian law and policy no longer actively seek to destroy tribal religions and cultural property, but tribal religious freedom remains under threat from other sources.

Any discussion of federal Indian law and policy in relation to Indian religious freedom must take into consideration that the concept of "religion" as defined in the English language and regulated by the U.S. government may not translate similarly into Native context. Many Indian religions mean far more than mere spiritual beliefs to their practitioners. In a number of Indian cultures, the religion might include the tribe's history, culture, laws, and lands, among other matters. For this reason, there was a disconnect between the interpretations of federal officials and Native Americans about religious freedom that resulted in laws and policies that negatively impacted Native spiritual practices.

Indian Agents, Boarding Schools, and Missionaries

Before the establishment of the United States, European missionaries had, with limited success, entered Indian com-

munities and sought to convert the Native residents to their religions. Some Natives, such as the Great Lakes Anishinaabeg (Ojibwe, Ottawa, and Potawatomi Indians), for example, looked upon these missionaries as objects of scorn. As the Indian communities became increasingly involved in the fur trade, and as European governments expanded their influence in the region, the Indians began to treat missionaries with open hostility. However, some Native communities, such as the Yoeme (Yaqui people), adapted Spanish Catholicism as a major part of their indigenous religious practices. It is difficult to generalize the impact of non-Indian religions in Native communities, given that individuals, families, or societies chose their own spiritual road.

What is certain is that the Indian policy of the United States imposed restrictions on the religious freedom of Indian peoples. Many commentators, and at least one Supreme Court justice (Harry Blackmun), have referred to federal efforts to restrict Native religious practices as ethnocide or even genocide. American policy makers often ridiculed Native culture and spiritual beliefs, and used notions of Western cultural superiority to justify dispossessing Indians of their personal property and lands. Even "friends" of Indians argued in favor of Christianizing Natives as a means of integrating them into American society. Accompanying the programs designed to turn Indians away from their traditional religious practices were those designed to change Indian people into agriculturalists. One federal officer stated that "one of two things must eventually take place, to wit either civilization or extermination of the Indian. Savage and civilized life cannot live and prosper on the same ground" (Nell Jessup Newton, ed., *Cohen's Handbook of Federal Indian Law*, 2005).

The treaties that formed the basis for much of federal-tribal relations included provisions calling for the federal government to encourage Native people toward the Christian faith. In some instances, federal treaty negotiators pressed for Indian communities to adopt a form of the Christian religion as a condition of remaining on their lands instead of being subjected to removal. The Pokagon Band of Potawatomi Indians, for example, converted to Catholicism in 1833 in order to avoid removal to Kansas and Oklahoma. Over time, many Indian people have converted to Christian religions, and some Indian communities are rigorously Christian.

The U.S. government also provided funds for the purpose of educating Indian people so that they would be prepared for their eventual assimilation into mainstream society. As

one federal court stated, Indian reservations themselves were to be the “school[s]” in which Indian people would learn to become like white men (*United States v. Clapox* [1888]). Congress appropriated funds for boarding schools to be maintained and operated by Christian churches. Throughout the latter half of the nineteenth and well into the twentieth century, government and church officials often coerced Indian families into sending Indian children to boarding schools, where they were physically punished for speaking their native language. Many of these boarding schools, such as the Haskell Institute (now Haskell Indian Nations University) in Kansas, the Phoenix Indian School, and the Mount Pleasant Indian School, used a strict regimen of physical and psychological constraints on Indian children in order to remove the “Indian” in them as a paternalistic means of “saving” them from extinction. The boarding schools were powerful agents of destroying Indian languages and religious practices. Most Indian children who attended these schools for significant periods of time lost the ability to speak their own language and, in many instances, converted to the denomination that operated the school.

In the 1880s federal policy makers and commissioners of Indian affairs implemented programs designed to break tribal ties and ideas of communal land ownership in another effort to prepare Indians for assimilation. As educator Richard Pratt put it, the goal for government was to “[k]ill the Indian . . . and save the man” (Richard Pratt, “The Advantages of Mingling the Indians with the Whites,” 1973). On-reservation Indian agents, often political appointees with little or no understanding of Native peoples or cultures, imposed harsh restrictions on traditional Indian religious practices within the reservation. The secretary of the interior enacted regulations that called for each reservation Indian agent to impose Law and Order Codes through the creation of courts of Indian offenses, staffed by Indians hand-picked by the agent. These codes prohibited the exercise of the religious practices of the Indian communities in favor of Christian religious practices preferred by the Indian agent or otherwise mandated by federal policy. Indian religions were forced to retreat underground. The Sun Dance, for example, could not be practiced by Indians except in secret locations for many decades. Indian agents located at the Rio Grande pueblos complained that the Indians there refused to discard their religious practices and authored reports to the secretary of the interior that belittled Indian traditions. Indian agents regulated such matters as the length of hair of Natives, agricultural and grazing practices, and bedtimes, and even

engaged in the renaming of Indian people in order to speed assimilation (and for bureaucratic ease). These federal practices continued into the mid- to late twentieth century in some parts of Indian Country, despite efforts by Commissioner of Indian Affairs John Collier, who issued a circular to Office of Indian Affairs employees barring “interference with Indian religious life or ceremonial expression” (Francis Paul Prucha, *The Great Father: The United States Government and the American Indians*, 1984).

In the twentieth century, Congress enacted several environmental statutes that have affected Indian religious freedom. The Bald and Golden Eagle Protection Act has been construed by the Supreme Court in *United States v. Dion* (1986) as abrogating Indian treaty provisions that appeared to protect the tribal right to take eagle parts. Indians now must apply to the National Eagle Repository, a difficult bureaucratic hurdle, in order to lawfully possess eagle parts for their rituals and ceremonies. Other environmental statutes, such as the Endangered Species Act and the National Environmental Policy Act, have also contributed to interference with certain Indian religious practices.

The American Indian Religious Freedom Act and the Religious Freedom Restoration Act

In the American Indian Religious Freedom Act (AIRFA), actually a nonbinding joint resolution adopted in 1978, Congress announced that the policy of the United States was to “protect and preserve” the rights of American Indians, Alaska Natives, and Native Hawaiians “to believe, express, and exercise” their “traditional religions.” The AIRFA defined the practice of “traditional religions” to include without limitation “access to sites, use and possession of sacred objects, the freedom to worship through ceremonials and traditional rites.”

A study conducted by the House of Representatives proved that federal agencies were arbitrarily and erratically restricting Indian religious freedom by denying Native access to sacred sites on federal lands. The agencies refused to allow Indians to bury their leaders in tribal cemeteries located on federal land. Federal law enforcement officials confiscated substances such as peyote and animal parts such as turkey and eagle feathers, all of which were used by Indians for religious purposes that should have been protected by the First Amendment. In notorious instances, federal agents interfered with tribal ceremonies and religious practices. In one example, on-reservation federal Indian agents, as a matter of administrative practice, refused to leave sacred grounds

at Rio Grande pueblos during religious ceremonies requiring that no non-Indian be present.

The AIRFA did not include an enforcement and penalty provision, which undermined the effectiveness of the act in a major Supreme Court decision, *Lyng v. Northwest Indian Cemetery Protective Association* (1988). Despite the government's acknowledgment that a road project (the G-O Road) would destroy areas central to the religions of the Yurok, Karuk, and Tolowa tribes, the Court allowed the project to go forward, in part because, without an enforcement clause, the AIRFA had "no teeth." In order to remedy the situation, President Bill Clinton issued Executive Order No. 13007 (1996), which requires all federal agencies to provide access to sacred sites for Indian people and mandates that federal agencies not allow the sites to degrade. The AIRFA and Executive Order No. 13007, while unenforceable statements of federal policy, do impose a duty on federal agencies to take into consideration tribal interests, consult with tribal leaders on the subject of Indian religion, and not interfere with tribal religious practices.

In 1964 the California Supreme Court decided *People v. Woody*, in which it recognized that the First Amendment's free exercise clause protects American Indians (and, by implication, others as well) from prosecution for the religious use of peyote, a hallucinogenic cactus. The peyote religion is one of the most widely practiced in Indian Country. In *Employment Division v. Smith* (1990), however, the Supreme Court upheld the state of Oregon's denial of unemployment benefits to drug rehabilitation center employees who had been fired for using peyote as a religious sacrament during nonworking hours. Justice Antonin Scalia's opinion established that government interference with religious activities would be subject to a test under the First Amendment that deferred to the government, so long as the government did not ban the religion outright. *Smith* indicated that the Supreme Court would not grant protection under the Constitution to peyote religion adherents. After an outcry from numerous religious advocacy organizations, Congress enacted the Religious Freedom Restoration Act (RFRA). This statute required federal courts to apply a stricter test to any governmental interference with religious practices, but the Court declared portions of the act unconstitutional in *City of Boerne v. Flores* (1997).

In 2005 the Supreme Court in *Gonzales v. O Centro Espírita Beneficente União do Vegetal* held that the federal government must justify its interference with minority religions under the strict scrutiny test as mandated by Congress in the

RFRA. The United States had banned the possession, sale, and use of a hallucinogen called hoasca, used by a small religious sect as part of their religious ceremonies. The federal government argued that the ban should not be subject to the strict scrutiny test because only American Indian religions received the benefit of the test in accordance with the trust relationship between the United States and Indian tribes. The Court rejected the argument and held that any federal interference with religious practices should be subject to the stricter test.

Federal Indian law and policy also affects the religious freedom of American Indian prison inmates who seek access to sweat lodges, the provision of ceremonial pipes and medicine bags, and the right to wear long hair. Prior to the enactment of the AIRFA, federal and state courts adopted a test in which prison officials restricted religious freedoms, and as long as the restriction was reasonably based on a legitimate prison management concern, the courts would uphold it. In 2000 Congress passed the Religious Land Use and Institutionalized Persons Act, which requires federal courts to apply a test that is more protective of prisoner rights.

Sacred Sites and Tribal Cultural Property

Indians and Indian tribes in the early twenty-first century fight to protect what remains of their tribal culture, language, and religions. Much of this struggle focuses on what some call "cultural property," a broad, inclusive term that includes, without limitation, tribal sacred and religious sites, tribal artifacts and other personal property, tribal languages and images, and even human remains. According to *Cohen's Handbook of Federal Indian Law*, the leading Indian law treatise states that cultural property includes "any property of great importance to the cultural heritage of a people." Several federal statutes provide some protection for cultural property, with the most important being the Native American Graves Protection and Repatriation Act (NAGPRA).

NAGPRA requires federal agencies and museums to disclose their holdings of tribal cultural property, with emphasis on funerary and other sacred objects, including human remains. When certain conditions are met, such as when the objects can be identified as affiliated with a certain tribal community, the objects must be repatriated to the community. NAGPRA also protects items found on tribal or federal lands and criminalized the traffic in these goods. Other federal statutes, such as the National Historic Preservation Act and the Archaeological Resources Protection Act, as well as the statutes of some states, offer additional protections. However,

there is little or no protection in instances where private parties possess or even trade in tribal cultural property or where sacred sites and objects are located on private property. Some scholars and Native leaders have called for expanded laws to protect tribal cultural property left vulnerable by the absence of federal and state protections.

Indian Religions and Tribal Governments

The complexity and even contradiction in federal Indian law and policy regarding Indian religious freedom perhaps is best exemplified in the ways tribal governments deal with the issue. The Navajo Nation, for example, banned persons within the Navajo reservation from engaging in the practices of the Native American Church, a sect whose members engage in the ceremonial use of the hallucinogen peyote. Members challenged the ban in federal court, and the Tenth Circuit in *Native American Church v. Navajo Tribal Council* (1959) upheld the nation's authority to ban the religion. (The Navajo Nation later repealed the ban.) Federal Indian law principles dating back to the nineteenth century indicated that the First Amendment did not apply to Indian tribal governments. When Congress enacted the Indian Civil Rights Act in 1968, extending most of the Bill of Rights protections to persons under tribal jurisdiction, the act did not ban the establishment of an official tribal religion, evidently to protect the tribal governments in the desert Southwest and elsewhere that were theocratic in character.

Federal government interference with American Indian religions has been a constant factor in U.S. Indian law and policy. In the past, such intrusion was used primarily as a means of undermining tribal cultures, but in recent decades Congress has taken steps to reduce the impact of that interference.

See also *American Indian Religious Freedom Act (AIRFA; 1978); Assimilation and Acculturation; Bill of Rights; Courts of Indian Offenses; Cultural Property; Employment Division v. Smith (1990); Haskell Indian Nations University; Indian Civil Rights Act (1968); Lyng v. Northwest Indian Cemetery Protective Association (1988); Missions and Missionaries; Native American Church; Native American Graves Protection and Repatriation Act (NAGPRA); Religious Organizations and Indian Policy; Sacred Sites.*

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BIBLIOGRAPHY

Carpenter, Kristen A. "Considering Individual Religious Freedoms under Tribal Constitutional Law." *Kansas Journal of Law and Public Policy*, vol. 14 (Spring 2005): 561–590.

- . "A Property Rights Approach to Sacred Sites Cases: Asserting a Place for Indians as Nonowners." *UCLA Law Review*, vol. 52 (April 2005): 1061–1148.
- Cohen, Felix S. "The Erosion of Indian Rights, 1950–1953: A Case Study in Bureaucracy." *Yale Law Journal*, vol. 62, no. 3 (1953): 348–390.
- Cross, Raymond. "American Indian Education: The Terror of History and the Nation's Debt to the Indian Peoples." *University of Arkansas at Little Rock Law Review*, vol. 21 (Summer 1999): 941–977.
- County of Yakima v. Confederated Tribes and Bands of the Yakima Indian Nation*, 502 U.S. 251 (1992).
- Dussias, Allison M. "Ghost Dance and the Holy Ghost: The Echoes of 19th Century Christianization Policy in 20th Century Free Exercise Cases." *Stanford Law Review*, vol. 49 (April 1997): 773–852.
- Gonzales v. O Centro Espirita Beneficiente União do Vegetal*, 546 U.S. 418 (2006).
- Glauner, Lindsay. "The Need for Accountability and Repatriation: 1830–1976 The United States Government's Role in the Promotion, Implementation, and the Execution of the Crime of Genocide against Native Americans." *DePaul Law Review*, vol. 51 (Spring 2002): 911–961.
- LaDuke, Winona. *Recovering the Sacred: The Power of Naming and Claiming*. Cambridge, Mass.: South End Press, 2005.
- Lyng v. Northwest Indian Cemetery Protective Association*, 485 U.S. 439 (1988).
- Native American Church of North America v. Navajo Tribal Council*, 272 F.2d 131 (10th Cir. 1959).
- Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005.
- People v. Woody*, 394 P.2d 814 (Cal. 1964).
- Petoskey, John. "Indians and the First Amendment." In *American Indian Policy in the Twentieth Century*, edited by Vine Deloria Jr., 221–238. Norman: University of Oklahoma Press, 1985.
- Pratt, Richard H. "The Advantages of Mingling Indians with Whites." In *Americanizing the American Indians: Writings by the "Friends of the Indian" 1880–1900*, edited by Francis Paul Prucha, 260–271. Cambridge, Mass.: Harvard University Press, 1973.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Riley, Angela R. "Sovereignty and Illiberalism." *California Law Review*, vol. 95 (2007): 799–848.
- . "'Straight Stealing': Towards an Indigenous System of Cultural Property Protection." *Washington Law Review*, vol. 80 (February 2005): 69–164.
- United States v. Clapox*, 35 F.575 (D. Or. 1888).
- United States v. Dion*, 476 U.S. 734 (1986).
- Vecsey, Christopher. *Traditional Ojibwe Religion and Its Historical Changes*. Philadelphia, Pa.: American Philosophical Society, 1983.

Religious Freedom Restoration Act (RFRA; 1993)

The 1993 Religious Freedom Restoration Act (RFRA) was signed into law in response to a 1990 Supreme Court decision, *Employment Division, Department of Human Resources of Oregon v. Smith*, that had ruled that the use of peyote was not

a protected right under the Free Exercise Clause of the Constitution. The case had denied two Oregon state employees unemployment compensation following their dismissal after a drug test revealed they had used peyote.

The Court's decision had been opposed by a broad coalition of religious groups. These groups, including not only Native American tribes, but Jewish, Muslim, and Amish representatives, banded together in a grassroots effort to press for congressional action to mitigate the effects of the decision. The resulting RFRA passed by a near-unanimous vote.

The RFRA restored what had been the previous test—strict scrutiny—for government interference in religious practices. The legislation said that the government must have a “compelling state interest” to intervene in religious rituals and then only if the religious practice threatened public health or safety. And when intervening, the government was to use the least intrusive means possible. In 1994 Congress took an additional step to protect peyote use by amending the 1978 American Indian Religious Freedom Act to allow for Native American use of the substance.

In 1997, in the case *City of Boerne v. Flores*, the Supreme Court struck down portions of the RFRA for technical constitutional reasons. In 1999 Congress unsuccessfully attempted to pass a law similar to the RFRA, the Religious Liberty Act. In 2000 it again took up the topic, passing a scaled-back version of the RFRA, the Religious Land Use and Institutionalized Persons Act, which focused solely on protecting religious practices on public lands and for incarcerated individuals.

See also *American Indian Religious Freedom Act (AIRFA; 1978)*; *Employment Division v. Smith (1990)*; *Religious Freedom*.

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BIBLIOGRAPHY

- Blatnik, Edward J. W. “No RFRAF Allowed: The Status of the Religious Freedom Restoration Act's Federal Application in the Wake of *City of Boerne v. Flores*.” *Columbia Law Review*, vol. 98, no. 6 (October 1998): 1410–1460.
- Buss, William G. “Federalism, Separation of Powers, and the Demise of the Religious Freedom Restoration Act.” *Iowa Law Review*, vol. 83 (January 1998): 391–434.
- Tapae, Luralene D. “After the Religious Freedom Restoration Act: Still No Protection for First American Worshipers.” *New Mexico Law Review*, vol. 24 (Spring 1994): 331–342.

Religious Organizations and Indian Policy

In the eighteenth and nineteenth centuries, the U.S. government believed that promoting Indian missions was consistent with the nation's welfare. If the Indians became Christians, it was thought, they would be bound more clearly to the nation's interests. Henry Knox, the first secretary of war, strongly advocated supporting missions. His ideas became the basis of much of early U.S. Indian policy, notwithstanding the First Amendment's prohibition of establishment of religion. There was little concern throughout much of the nineteenth century about the church-state ties involved in government aid to Indian missions because the “civil religion” of most Americans was a kind of generic Protestantism, and there was a virtually complete identification of “Americanism” and “Protestantism” in many people's minds.

The government gave only limited and sporadic aid to missions to Native Americans before the second decade of the nineteenth century. In March 1819 Congress authorized an annual appropriation of \$10,000 for programs to advance the civilization of the Indians. While it was not a great deal of money, the availability of what was known informally as the “Civilization Fund” to subsidize Indian schools stimulated action among missionary societies and other agencies. The Second Great Awakening (1790–1840s) also prompted renewed interest in Indian missions. By 1820 twenty to thirty missionary societies had been formed in America. The most significant interdenominational mission agency was the American Board of Commissioners for Foreign Missions (ABCFM), founded in Boston in 1810, which began its work among the American Indians in 1816. This foreign mission board was involved in missions to the Native Americans because the tribes were considered “foreign” nations by the government at that time.

In the nineteenth century, missions placed considerable emphasis on schools for Indians. Education efforts focused on basic academic skills and usually included training in agriculture or manual labor trades for male students and “American-style” housekeeping for female students. Generally, missionaries and policy makers believed that evangelization, civilization, and Americanization went hand in hand.

In the late 1830s and 1840s, missionaries disagreed about the government's Indian removal policy. Some churches and mission groups supported removal as being in the best long-term interests of the Native people. Among them was Isaac McCoy, a Baptist missionary among the Potawatomis in

Michigan, who actively promoted removal and led some government-sponsored expeditions that took tribal leaders to examine the western lands in an attempt to gain their agreement to move. Other missionaries and churches opposed removal. In *Worcester v. Georgia* (1832), the U.S. Supreme Court heard the case of Elizur Butler and Samuel A. Worcester, two ABCFM missionaries who were imprisoned because they refused to swear to support the laws of Georgia and were encouraging the Cherokees to resist removal. The ABCFM and the Cherokee Nation provided representation for the two missionaries before the high court, which ruled in their favor. Nevertheless, removal proceeded unabated, and while religious organizations eventually established many missions in the Indian Territory, the disruption caused by removal harmed the missionary effort.

After the Civil War, the close association of religion and Indian policy expanded. A generation of "New Christian Reformers," as historian Francis Paul Prucha identifies them, reflected broad public support for a reorientation of Indian policy around Christian ideals and practices and exerted considerable impact on Indian policy. In 1869 Congress created the Board of Indian Commissioners, authorizing the president to appoint individuals who would serve without compensation to advise the secretary of the interior on Indian affairs. Board members were mostly wealthy men active in Protestant church and mission organizations. No Roman Catholic member was appointed to the board until 1902.

President Ulysses S. Grant's "Peace Policy," inaugurated in 1869, formalized the role of Christian reformers in the conduct of Indian policy. Under the Peace Policy, various religious groups nominated candidates to serve as Indian agents, and reservation affairs were generally placed under the supervision of particular religious denominations. In effect, the Indian service subcontracted the conduct and evaluation of Indian policy to church groups.

During the short time it was in effect, the Peace Policy cleaned up some of the corruption that had infested Indian agencies, but in the long run, several problems undermined its effectiveness: not enough personnel volunteered to become agents, and eventually Congress began to resent that it had lost the patronage power to appoint agents. There was also controversy about how agencies were assigned. While northern branches of Methodists, Baptists, and Presbyterians received a substantial number of agencies, the southern branches, which had more Indian members than any other Protestant bodies, received no agencies because of lingering

post-Civil War sectional tensions. Quakers received far more agencies than their numbers in America would seem to have justified. Due to anti-Catholic prejudice, the Roman Catholic Church was assigned far fewer appointments than its size and its previous involvement in Indian missions should have indicated. Because of these disputes, and Congress's desire to regain control over patronage, the Peace Policy was abandoned in the early 1880s.

After the demise of the Peace Policy, government cooperation with religious groups continued via contract schools, in which the government contracted with religious organizations to run Indian schools. There was considerable opposition by Protestants to government funding of Roman Catholic schools, and this controversy played a large part in the end of direct government subsidies for sectarian schools in 1900.

In the early twentieth century, formal connections between religious organizations and government Indian policy became less common. The Progressive era's emphasis on efficiency and expertise supported a type of secular influence that mitigated against continued involvement of religious groups in the shaping of Indian policy. As the United States became more culturally and religiously diverse, there was less consensus on supporting sectarian organizations with federal funds.

See also *Civilization Program*; Grant, Ulysses S.; Knox, Henry; *Missions and Missionaries*; Removal; Worcester v. Georgia (1832).

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BIBLIOGRAPHY

- Beaver, R. Pierce. *Church, State, and the American Indians*. St. Louis: Concordia, 1966.
- . "Protestant Churches and the Indians." In *History of Indian-White Relations*, edited by Wilcomb E. Washburn, 430–458. Vol. 4 of *Handbook of North American Indians*. Washington, D.C.: Smithsonian Institution, 1988.
- Berkhofer, Robert F. *Salvation and the Savage: An Analysis of Protestant Missions and American Indian Response, 1787–1862*. New York: Atheneum, 1976.
- Bowden, Henry Warner. *American Indians and Christian Missions: Studies in Cultural Conflict*. Chicago: University of Chicago Press, 1981.
- Joy, Mark S. "Missions to Native Americans, Protestant." In *Dictionary of Christianity in America*, 759–760, edited by Daniel G. Reid et al. Downer's Grove, Ill.: InterVarsity Press, 1990.
- Keller, Robert H. *American Protestantism and United States Indian Policy, 1869–1882*. Lincoln: University of Nebraska Press, 1983.
- Milner, Clyde A., II, and Floyd A. O'Neil, eds. *The Churchmen and the Western Indians*. Norman: University of Oklahoma Press, 1985.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.

Rahill, Peter J. *The Catholic Indian Missions and Grant's Peace Policy, 1870–1884*. Washington, D.C.: Catholic University of America, 1953.

Schultz, George A. *An Indian Canaan: Isaac McCoy and the Vision of an Indian State*. Norman: University of Oklahoma Press, 1972.

Relocation Program

In 1948 the Bureau of Indian Affairs (BIA) initiated trial job programs for the Navajos, Hopis, and other tribes with the goal of providing employment, initially temporary or seasonal, in urban areas. Over time the BIA expanded the programs to locate more permanent jobs for reservation residents. In 1952 the BIA established a national relocation assistance program whereby Native American family heads could seek off-reservation employment. This initiative corresponded with a broader policy agenda designed to terminate federal supervision of Indian reservations. The jobs program was expanded again in 1956 to provide Indians aged eighteen to thirty-five with vocational, on-the-job, and apprenticeship training.

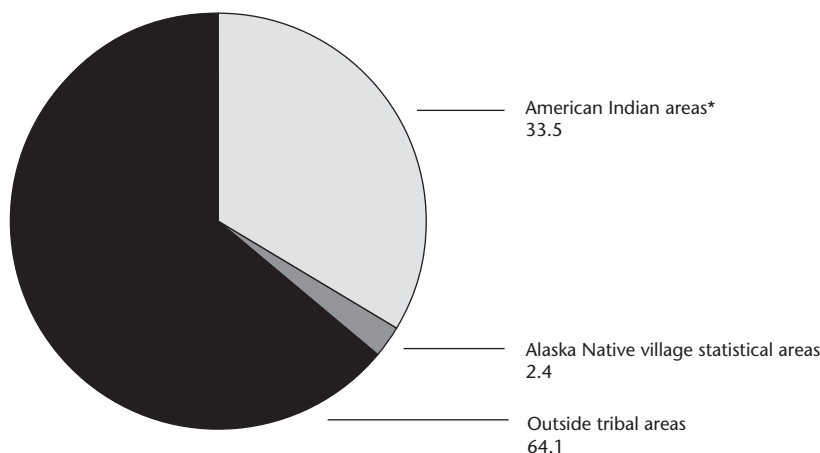
In 1962 the Voluntary Relocation Program was renamed the Employment Assistance Program and expanded to include vocational training and job placement on or near

reservations. The Employment Assistance Program and the Adult Vocational Training Program were the cornerstones of the relocation program. American Indians who chose to relocate under the Employment Assistance Program were provided transportation to one of several urban areas where they were promised vocational training, assistance in finding employment, and other services to assist their adjustment to city life. The BIA relocated more than 35,000 American Indians to cities including Los Angeles, Salt Lake City, Denver, Dallas, Chicago, St. Louis, Cincinnati, Cleveland, and San Francisco. Tens of thousands more American Indians moved to cities of their own accord.

The experiences of the Indians who moved to San Francisco illustrate the challenges and opportunities faced by those who moved to urban areas. Many Indian people migrated or were relocated by the BIA to the Bay Area after World War II to work in the defense industries. They held a variety of educational levels and developed varying relationships with non-Indians and Indians from other tribes. The most common reason they relocated was that steady employment was nonexistent on reservations. A significant subset of relocatees were Indian men who had served in the military and chose to settle in the San Francisco area after

FIGURE 1: American Indian and Alaska Native Population by Place of Residence, 2000

(Percent distribution. Data based on sample. For information on confidentiality protection, sampling error, nonsampling error, and definitions, see www.census.gov/prod/cen2000/doc/sf4.pdf.)



* Includes federal reservations and/or off-reservation trust lands (20.9 percent), Oklahoma tribal statistical areas (9.3 percent), tribal designated statistical areas (0.1 percent), state reservations (0.04 percent), and state designated American Indian statistical areas (3.2 percent).

Source: U.S. Census Bureau, Census 2000 Summary File 4.

The federal government's relocation program aimed to integrate more Native Americans into American society and culture. As the chart shows, more than 60 percent of Native Americans lived outside of reservations as of 2000.

the war. Families of these men often relocated to join their relatives. Once in the city, these people were employed in a wide range of unskilled, semiskilled, and skilled positions in both large and small industries and in service-related fields. While many found employment and a new life in the city; others eventually opted to return to the reservation.

In the absence of an existing “Indian community,” a network of active social, religious, and political Indian groups emerged in the Bay Area. In 1964 alone, Indian people formed some twenty specific organizations. These organizations became the focal point for expression of both political and social concerns, including discrimination in employment, poor living conditions, failure of the federal government to keep promises made during the relocation process, and an increase in police brutality toward Indian people. It was out of urban areas like San Francisco that the Native American “Red Power” activist movement emerged in the late 1950s and 1960s.

During the 1960s, the United States gradually abandoned the termination policy and relocation programs; however, economic opportunities and a different cultural milieu continued to attract many Native people to urban areas. Presently, there are vibrant Native urban communities in many cities throughout the United States, particularly in the West.

See also *Bureau of Indian Affairs; Reservations; Termination and Restoration; U.S. Indian Policy: Congress and the Executive, 1944–1962.*

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BIBLIOGRAPHY

- Deloria, Vine, Jr., ed. *American Indian Policy in the Twentieth Century*. Norman: University of Oklahoma Press, 1992.
- Fixico, Donald L. *Termination and Relocation: Federal Indian Policy, 1945–1960*. Albuquerque: University of New Mexico Press, 1990.
- LeGrand, James B. *Indian Metropolis: Native Americans in Chicago, 1945–75*. Champaign: University of Illinois Press, 2002.
- Madigan, La Verne. *The American Indian Relocation Program*. New York: Association on American Indian Affairs, 1956.
- Olson, James Stuart and Raymond Wilson. *Native Americans in the Twentieth Century*. Champaign: University of Illinois Press, 1986.

Removal

In 1830 Congress passed the Indian Removal Act (IRA) after much debate. The act gave the president the power to negotiate treaties with Indian tribes living east of the Mississippi River and remove them to lands west of the river. Tribes removed from the Southeast would reside in “Indian

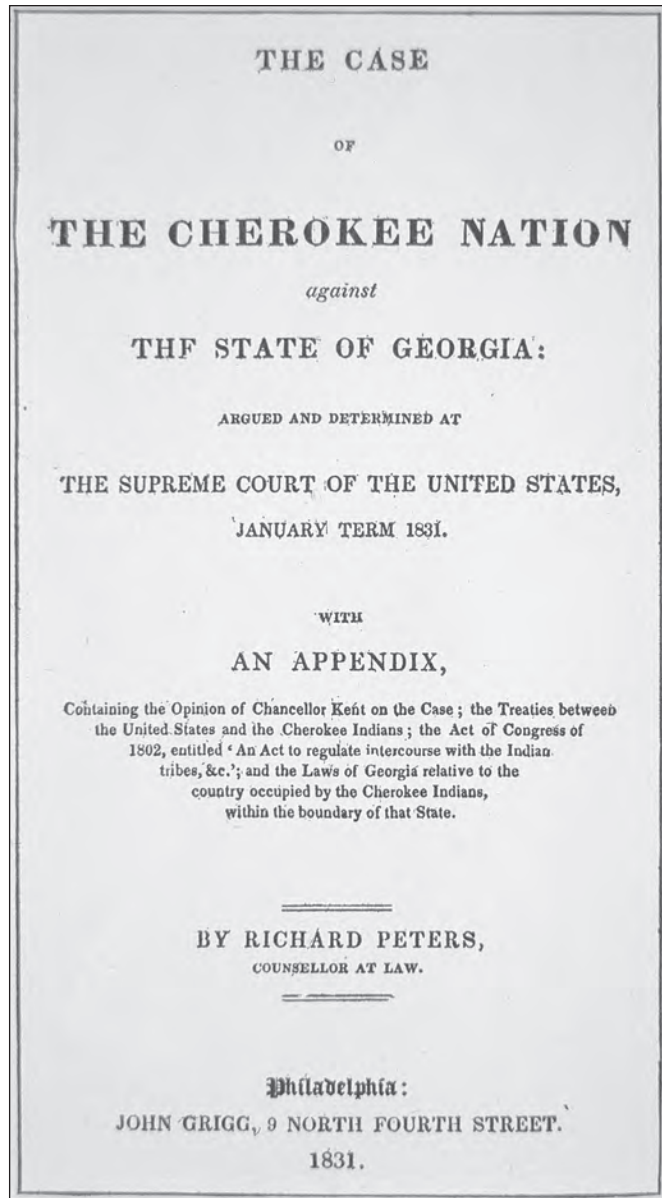
Territory,” in what is now Oklahoma. The act also affected tribes within the Old Northwest, which were frequently removed to locations other than Indian Territory. Throughout much of the remaining nineteenth century, the U.S. government removed tribes from their lands and relocated them to new lands or isolated them on reservations. Indian removal led to terrible hardships for many tribes, including the infamous Cherokee Trail of Tears, the Black Hawk War of 1832, the Navajo Long Walk, and a quagmire of a war between the United States and the Seminoles in Florida.

Roots of Indian Removal

Indian removal is usually viewed as synonymous with Andrew Jackson. While Jackson was one of the foremost advocates of removal, he was not the first to suggest moving tribes to lands west of the Mississippi River. Previous presidents, including George Washington, Thomas Jefferson, James Madison, James Monroe, and John Quincy Adams, also had promoted removal. Monroe’s administration, for example, laid much of the groundwork for the general removals of the 1830s.

Following the American Revolution, the U.S. government wanted to open lands on the nation’s northwest and southwest frontier for settlement. Unlike later advocates of removal, George Washington and his secretary of war, Henry Knox (1789–1795), attempted to implement a removal policy that respected the sovereignty of the tribes. They hoped to establish order on the frontiers and provide an organized process for territorial expansion. Knox treated Indian nations as sovereign foreign nations and negotiated land treaties with them. In return for their lands, tribes would relocate to “Indian enclaves” that would be protected from white settlement. In addition, Washington and Knox promoted a “civilization program” to teach Indians to speak English, adopt Anglo-American gender roles, and become settled farmers.

Thomas Jefferson supported the civilization program, and he advocated respect for Indian sovereignty and treaty rights when he served as Washington’s secretary of state (1790–1793). As president (1801–1809), Jefferson continued to promote the civilization program and the eventual granting of citizenship to Indians, but he linked these ideas with removal. He believed that Indians were having difficulty assimilating because of contact with unscrupulous whites. Moreover, large land holdings worked against civilization by allowing tribes to continue subsistence hunting. Jefferson’s solution was to encourage Indians to move away from white settlements so that they could become civilized without the



Richard Peters, the court reporter for the U.S. Supreme Court, recognizing the significance of *Cherokee Nation v. Georgia* (1831), decided to produce a book to preserve the history of the case. This work includes the Cherokee Nation's legal brief and documents that the Cherokees used to prove that they were a sovereign nation.

influence of American frontier settlers and unscrupulous traders. Removal would ensure the Natives' survival by forcing them to adopt sedentary agriculture and other Anglo-American customs.

Jefferson laid the groundwork for removal in various ways. The acquisition of the Louisiana Territory from France in 1803 represented his first step. In his view, the Louisiana Purchase created a large territory to which Indians could be removed. After 1803, most Indian removal plans advocated

exchanging eastern Indian lands for tracts located within the Louisiana Purchase.

After acquiring lands deemed suitable, Jefferson attempted to convince Indians to voluntarily leave for the West. Secretary of War Henry Dearborn (1801–1809) pressured Indian agents to implement civilization programs and to persuade tribes to relocate. As incentives for removal, agents proposed giving tribes the same number of acres in the West as they held in the East and offered federal monies for the move and the establishment of new settlements. Jefferson achieved some success with this plan; between 1808 and 1810, for example, approximately 2,000 Cherokees “exchanged” their eastern lands for territory in present-day Arkansas.

At the same time Jefferson was advocating voluntary removal, he was also using more underhanded methods to “encourage” tribes to sell their lands. In what was at that time a confidential letter to the governor of Indiana Territory, William Henry Harrison, dated February, 27, 1803, Jefferson suggested using government trading houses to push Indians into debt. Then, the United States could persuade the tribes to pay off these debts with cessions of land. Jefferson's plans to encourage and force land cessions were effective. During his presidency, the government signed thirty-two cession treaties with a variety of Indian tribes, resulting in the acquisition of some 200,000 square miles east of the Mississippi River.

Removal efforts gained momentum following the War of 1812. During the war, Indians in the East suffered a series of defeats that made united resistance to removal unlikely. For example, Tecumseh died at the Battle of the Thames (1813), leading to the collapse of his pan-Indian confederation. In 1814 Andrew Jackson defeated the Red Stick Creeks at the Battle of Horseshoe Bend. Following these losses, some politicians in Washington ceased to fear the possibility of Native military resistance in the East and began to believe that a large-scale removal program would be feasible.

President Monroe (1817–1825) signaled that he supported a federal removal policy by appointing strong advocates of removal to run Indian affairs, including John C. Calhoun as his secretary of war (1817–1825) and Thomas L. McKenney as his superintendent of Indian trade (1816–1822). In 1817 Monroe's administration signed a treaty with the Cherokees, who exchanged a portion of their lands for a tract west of the Mississippi. Monroe suggested the removal of all eastern Indians in his 1824 annual message to Congress. In 1825 Monroe again delivered a message to Congress asserting that removal to the West was the only

solution to the “Indian problem.” Congress, however, did not pass a removal bill at that time.

Monroe’s advocacy of removal differed from Andrew Jackson’s in one important respect: he demanded that tribes voluntarily agree to move west. Other officials in the government, though, endorsed more radical plans. Jackson, a renowned Indian fighter and commander of the army’s southern district, argued that Indian nations were not sovereign and that the government should stop negotiating treaties with tribes. Instead, he argued, Congress should control Indian affairs through legislation. Monroe declined Jackson’s advice. By the end of Monroe’s presidency, more than forty treaties had been signed with Indian nations, including the Treaty of Doak’s Stand (1820) under which the Choctaws ceded more than 5 million acres in Mississippi in exchange for lands in the West.

John Quincy Adams (1825–1829), like Monroe, advocated voluntary removal. The fraudulent nature of the Treaty of Indian Springs (1825) with the Creeks persuaded Adams that Native consent to any removal agreement was morally essential. By the time he left the White House, Adams was harshly critical of those who advocated forcing removal treaties on unwilling tribes. Although Adams had not yet been elected to the House of Representatives in 1830 when the vote was taken on the Indian Removal Act, most historians agree he would not have supported it. Adams later backed the Cherokees in their fight against removal by presenting their petition to Congress and by presiding over a daylong debate on the issue. In 1841 Adams was offered the chair of the House Indian Affairs Committee, but by then he was so disgusted with federal Indian policy that he turned it down.

The Indian Removal Act of 1830

Although Adams came to question removal, plans to clear the East of tribes moved forward with Andrew Jackson’s election as president in 1828. After taking office, Jackson (1829–1837) made Indian removal his top priority. He began by appointing strong advocates of removal to government posts, including Sen. John Eaton as secretary of war. Jackson also asked Congress to pass an Indian removal bill in his first State of the Union address (December 8, 1829). Following the president’s lead, both houses quickly introduced Indian removal bills.

Despite Jackson’s strong advocacy, a heated debate erupted over the removal bills. Sen. Theodore Frelinghuysen of New Jersey, a lawyer and strong supporter of the civilization program, spoke against removal. In a six-hour speech given

over three days, Frelinghuysen maintained that removal was unconstitutional, was illegal, and violated Christian morality. Sen. John Forsyth, a former attorney general from Georgia, defended removal. They passionately argued over state versus federal rights, Indian sovereignty, the morality of removal, the ideas that would become known as Manifest Destiny, and the racial status of Native Americans.

Despite the contentious debate, on April 26, 1830, the Senate voted (28–19) to pass a removal bill. A month later, the House voted for removal by an equally small margin (102–97). The resulting Indian Removal Act of 1830 provided “for an exchange of lands with the Indians residing in any states or territories and for their removal west of the river Mississippi.” In principle, removal was supposed to be voluntary; the president would follow established protocol by negotiating treaties for land cessions. Other parts of the act dictated that Indians who moved west would be given perpetual title to their new lands, as well as compensation for improvements on their old lands. The federal government would pay for removal and provide support and subsistence for their first year in Indian Territory. Congress naively authorized \$500,000 to carry out the act; removal, in fact, would cost the government tens of millions of dollars to complete.

At least by Jackson’s terms, the Indian Removal Act was successful. During his tenure in office, tribes signed approximately seventy treaties and ceded close to 100 million acres. In return, tribes received about 32 million acres located west of the Mississippi. Although targeted at the eastern tribes, removal became the federal government’s *de facto* Indian policy for the rest of the nineteenth century. Tribes across the Plains, down into Texas, and into the Pacific Northwest were all removed from their homelands to the Indian Territory, to other lands, or onto reservations.

Removal of the Cherokees

The Indian Removal Act cannot be discussed without reference to the Cherokee Nation’s efforts to resist relocation. Indeed, much of the motivation for the act stemmed from the fight over sovereignty, lands, and removal that transpired between the state of Georgia and the Cherokees. The history of Cherokee removal therefore represents a blueprint for the manner in which removal progressed among tribes across the nation.

Much of the mid-nineteenth-century debate over Cherokee removal from Georgia began in 1802, when Georgia ceded to the United States its claim to lands west of

its current border. In return, the federal government promised to remove all Indians from Georgia at some point in the future. But the Cherokees (and the Creeks) refused to leave Georgia, and the federal government did not deviate from its policy of requiring removal to be voluntary. By the 1820s, Georgians were pressuring the federal government to fulfill its promise to remove the Cherokees; if not, Georgia officials warned, the state would take matters into its own hands.

Some of the reluctance to remove the Cherokees stemmed from their adoption of “civilized ways.” Jefferson and others had argued that Indians could be incorporated into American society once they gave up their “savage” ways. Many Cherokees had done all that the federal government had asked and were farming like their white neighbors, wearing Anglo-American clothing, going to Christian churches, and speaking and reading in English. Some wealthy Cherokees owned plantations and African slaves. The Cherokee people had their own written language, developed by Sequoyah (George Gist), and the *Cherokee Phoenix*, a tribal newspaper edited by Elias Boudinot. In 1827 the Cherokee Nation adopted a written constitution and declared itself a sovereign republic, outside Georgia’s control. The new Cherokee government followed the American model; it established a court system, a principle chief, and a two-house legislature.

The newly formed government, however, could not protect Cherokees from calls by Georgia politicians for their immediate removal. Indeed, after 1827 demands for their expulsion from Georgia grew stronger. First, white Georgians already wanted Cherokee lands opened up for settlement and farming; the emergence of the cotton economy had made arable land more valuable in the South and Old Southwest. Second, in 1827 gold was discovered on Cherokee lands. Third, and most important, Georgians argued that the Cherokees were subject to state law and could not declare themselves a sovereign nation located within state borders. Acting on this belief, Georgia passed resolutions in 1828 asserting its sovereignty over Cherokee lands. Georgia then prohibited meetings of the tribal council, closed down tribal courts, and harassed, intimidated, and assaulted members of the tribal government.

The Cherokees fought back using the federal courts. In 1830 a delegation of Cherokees, led by Principal Chief John Ross, hired William Wirt, a former U.S. attorney general, to defend Cherokee sovereignty. Wirt’s first test case involved a Cherokee named George Tassel, who was arrested by Georgia officials in the summer of 1830 for murdering a

Cherokee man on Cherokee lands. The Cherokees argued that Georgia lacked jurisdiction over the case and that Tassel should have been tried by Cherokee courts. On Christmas Eve 1830, Georgia executed Tassel while his appeal was still pending before the U.S. Supreme Court. The Cherokee Nation went forward with an original action before the Court. In *Cherokee Nation v. Georgia* (1831), Chief Justice John Marshall disappointed the Cherokees with his opinion. The Court refused jurisdiction over the case because the Cherokees were not a foreign state, as required by Article III of the Constitution, but rather a “domestic dependent nation.”

In July 1831 Cherokees found another test case. Georgia officers arrested and convicted several missionaries, including Samuel Worcester, for violating a Georgia law that required whites living on Cherokee lands to secure a license from the state’s governor. In the subsequent Supreme Court case, *Worcester v. Georgia* (1832), Marshall ruled for the Cherokees. The chief justice held that the Cherokee Nation was “a distinct community, occupying its own territory. . . in which the laws of Georgia can have no force.” Thus, the holding implied, Indian nations were sovereign and should be free from the encroachments and trespasses of neighboring states.

Georgia ignored the ruling, and Congress and President Jackson took no action to enforce it. Many Cherokees were disheartened by this turn of events, and some came to believe that their nation should cut the best deal it could and then relocate in the West. In December 1835 a small group of Cherokee dissidents, including Major Ridge, his son John Ridge, and his nephew Elias Boudinot, signed the Treaty of New Echota. This treaty ceded all Cherokee lands in Georgia in exchange for a new territory west of the Mississippi. The treaty was obviously illegal; no official representative of the Cherokee Nation had signed the document. Chief John Ross presented Congress with a petition signed by more than sixteen thousand Cherokees protesting the treaty. Despite these objections, the Treaty of New Echota was ratified by the Senate by one vote and signed by Jackson in 1836.

Following the treaty, the Cherokees had two years to remove on their own. A small contingent of Cherokees left for the West—including the Ridges and Boudinot—but most remained. In May 1838 President Martin Van Buren (1837–1841) ordered the U.S. Army into Georgia to remove the Cherokees. Cherokee families were rounded up at gunpoint and placed in stockades guarded by soldiers. These

camps were cramped and unsanitary places, and hundreds of Cherokees died from diseases as they waited for removal. Removal began in October 1838 and continued through the following harsh winter. Conditions were so dire that the Cherokee removal became known in later years as the Trail of Tears. Many survived the camps, only to suffer disease and starvation along the trail and in their new homeland. Most historians cite 4,000 deaths caused by removal, but historical demographer Russell Thornton has argued that 8,000 deaths is perhaps a more accurate estimate. The Ridges and Boudinot were subsequently killed in the Indian Territory under a Cherokee law that provided for capital punishment for anyone who sold lands of the nation without the consent of the Cherokee national government.

Removal of Other Southeastern Tribes

The other major southeastern tribes, including the Choctaws, Chickasaws, Creeks, and Seminoles, faced the same harassment and pressure to sign treaties and remove to Indian Territory as their Cherokee counterparts. Following the Treaty of Dancing Rabbit Creek (1830), the Choctaws ceded nearly 11 million acres in return for lands in Oklahoma. The treaty gave the Choctaws the option to remain in Mississippi, but they would have to accept individual allotments and subject themselves to the laws of the state and local communities. The Choctaws who removed to Oklahoma and those who remained in Mississippi all faced enormous obstacles. Removal took place in three stages, all of which encountered tragedies including snow storms and disease. Many of those who chose to remain in Mississippi were defrauded of their allotted lands and faced racial discrimination. Following the removal of the Choctaws, the Chickasaws, who held lands in Mississippi, Alabama, and Tennessee, signed a removal treaty in 1832 and relocated to the Indian Territory.

In 1832, facing great pressure from Alabama, the Creeks also signed a removal treaty. As in the Choctaws' removal treaty, the Creeks' agreement stated that those who remained in Alabama could receive allotments. Only seven hundred of approximately twenty thousand Creeks moved west; the rest applied for allotments. Almost immediately, settlers flooded onto Creek lands, violating the terms of the treaty. Hundreds of Creeks lost their allotments through fraud or intimidation. Tension reached its peak in 1836, when violence broke out between the Creeks and white southerners in the region (known as the Second Creek War or the Creek War of 1836). With federal support, militias quickly suppressed the

Creek resistance and rounded up thousands of Creeks for removal; any who resisted were handcuffed, chained, and forcibly removed to Oklahoma. More than twenty thousand Creeks were removed to Indian Territory, ending their long-standing battle to remain in Alabama.

The Seminoles in Florida also fought against removal. In 1832 a small group of Seminoles signed away the tribe's Florida lands in the Treaty of Payne's Landing (1832). The Second Seminole War (1835–1842) began when the federal government attempted to enforce what the majority of Seminoles decried as an illegitimate and fraudulent treaty. Led by a young leader named Osceola, the Seminoles resisted against thousands of U.S. troops and won numerous battles over the duration of the war. When the war finally ended, it had cost the U.S. government millions of dollars and hundreds of lives on both sides. In the end, the majority of Seminoles removed to Oklahoma, although approximately six hundred remained in Florida. Following the Third Seminole War (1855–1858), most of the remaining Seminoles were relocated to Oklahoma. Descendents of the few who remained still reside in Florida today and comprise the Seminole and Miccosukee nations.

Removal of Northern Tribes

Although histories of removal usually center around the southeastern tribes, Native Americans north of the Ohio River also faced relocation. In many cases, removal for these tribes began long before 1830. Some tribes relocated voluntarily after the American Revolution, fleeing the advance of settlers, like the bands of Delawares, originally from Pennsylvania, who moved to Ohio in the eighteenth century. Ohio was not their last destination; they repeatedly relocated in the ensuing years to Indiana, Missouri, Kansas, and Oklahoma. A portion of the Oneidas relocated from New York to Wisconsin. The Stockbridge Indians moved from Massachusetts to New York, Indiana, and Wisconsin.

While many northern tribes moved voluntarily prior to the 1830s, sometimes more than once, renewed efforts were made to obtain northern lands following the passage of the Indian Removal Act. Indeed, between 1829 and 1851 the United States signed eighty-six removal treaties with twenty-six northern tribes. The majority of these treaties did not initially resettle Indians in Oklahoma like their southern counterparts; rather, northern tribes were relocated across the Mississippi into such territories as Iowa, Nebraska, and Kansas. For example, in 1834–1842 the Potawatomis were split in half and removed to Iowa and Kansas. In 1846 the two

groups re-merged and were placed on a reservation near Topeka, Kansas. Following a controversial removal treaty in 1837, the Ho-Chunks of Wisconsin were removed to Iowa and then Minnesota. After the U.S.–Dakota War of 1862, they were again removed, first to the Dakota Territory and finally to Nebraska in 1865. The Miamis were officially removed from Indiana in 1846 after several previous treaties drastically reduced their land base. Those Miamis who held private property were allowed to remain in Indiana, and the rest were relocated to Kansas and Oklahoma. Eventually, after multiple removals, several northern tribes, including the Delawares, Iowas, and Sacs and Foxes, ended up in Indian Territory (now Oklahoma), while other northern tribes, such as the Menominees, the Dakotas, the Ottawas, and the Ojibwes (Anishinabegs), were not removed to the West and remained on drastically reduced lands in their traditional homelands.

Military force was sometimes used to achieve the removal of northern tribes. In 1832 a group of Sauk Indians, under the leadership of Chief Black Hawk, returned to Illinois to plant corn after wintering across the Mississippi River. In the interim, American settlers had moved onto their lands. The settlers thought that the Indians were attacking, and the Illinois militia and federal troops were sent to put down the “uprising.” The Sauks were quickly defeated in the Black Hawk War, and were removed from Illinois to Kansas.

Results of Indian Removal

By 1850 the federal government had ratified 245 Indian treaties and acquired more than 450 million acres of land during the removal era. More than 100,000 Indians had been removed from the East to the West. Although the high death rate of the Cherokees on the Trail of Tears is usually cited to show the inhumanity of removal, other tribes lost large numbers of their population as a direct result of removal. Demographer Russell Thornton estimates that approximately 25–50 percent of the Creek and Seminole population and 15 percent of the Choctaws died during removal. The total deaths increase when military confrontations, such as the Black Hawk War, are included.

Tribes’ problems did not end, however, with their removal. Homes and farms needed to be built from scratch, often without sufficient supplies and in an unfamiliar environment. Moreover, even though the government viewed the lands given to the relocated Indians as “empty,” western tribes already inhabited the region and did not want to cede their lands to the arriving eastern or northern tribes. Further, internal divisions, often caused by the removal

process, carried over to tribes’ new homes. Finally, although the new reservations were supposed to be permanent, multiple relocations and broken treaties were common, especially for tribes relocated from the Old Northwest.

Despite the massive removal of the eastern tribes, small pockets of Indian settlements and smaller tribes, such as the Catawbias, remained in the East. In some cases, individual families retained and remained on their allotments. Others fled: groups of Seminoles escaped into the Everglades and a small band of Cherokees went into the mountains of western North Carolina. In 1842 these Cherokees received permission to remain on these lands, which became known as the Qualla Boundary.

See also *Adams, John Quincy; Allotment in Severalty; Black Hawk (Makataimeshekiakiak); Black Hawk War (1832); Boudinot, Elias; Calhoun, John C.; Cherokee Nation v. Georgia (1831); Cherokee Phoenix; Civilization Program; Compact of 1802; Creek Civil War; Dearborn, Henry; Extension Laws; Gold and Gold Rushes; Indian Removal Act (1830); Indian Territory; Jackson, Andrew; Jefferson, Thomas; Knox, Henry; Louisiana Purchase; Madison, James; Marshall, John; McKenney, Thomas L.; Monroe, James; New Echota (1835), Treaty of; Osceola; Ponca Removal; Reservations; Ridge Family; Ross, John; Second Creek War; Second Seminole War; Sequoyah; Tecumseh; Trail of Tears (1838–1839); United States–Dakota War of 1862; Van Buren, Martin; Washington, George; Wirt, William; Worcester v. Georgia (1832).*

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BIBLIOGRAPHY

- Bragaw, Stephen G. “Thomas Jefferson and the American Indian Nations: Native American Sovereignty and the Marshall Court.” *Journal of Supreme Court History*, vol. 31, no. 2 (July 2006): 155–180.
- Garrison, Tim Alan. *The Legal Ideology of Removal: The Southern Judiciary and the Sovereignty of Native American Nations*. Athens: University of Georgia Press, 2002.
- Green, Michael D. *The Politics of Indian Removal: Creek Government and Society in Crisis*. Lincoln: University of Nebraska Press, 1982.
- Keller, Christian B. “Philanthropy Betrayed: Thomas Jefferson, the Louisiana Purchase, and the Origins of Federal Indian Policy.” *Proceedings of the American Philosophical Society*, vol. 144, no. 1 (March 2000): 39–66.
- McLoughlin, William G. *After the Trail of Tears: The Cherokees’ Struggle for Sovereignty, 1839–1880*. Chapel Hill: The University of North Carolina Press, 1993.
- . *Cherokee Renaissance in the New Republic*. Princeton, N.J.: Princeton University Press, 1986.
- Norgren, Jill. *The Cherokee Cases: The Confrontation of Law and Politics*. New York: McGraw-Hill, 1996.
- Perdue, Theda, and Michael D. Green. *The Cherokee Nation and the Trail of Tears*. New York: Viking Adult, 2007.
- Prucha, Francis Paul. “Andrew Jackson’s Indian Policy: A Reassessment.” *The Journal of American History*, vol. 56, no. 3 (December 1969): 527–539.

- . *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Remini, Robert V. *Andrew Jackson and His Indian Wars*. New York: Viking, 2002.
- Rogin, Michael P. *Fathers and Children: Andrew Jackson and the Subjugation of the American Indian*. New York: Alfred A. Knopf, 1975.
- Satz, Ronald N. *American Indian Policy in the Jacksonian Era*. Norman: University of Oklahoma Press, 1974.
- Thornton, Russell. *American Indian Holocaust and Survival: A Population History Since 1492*. Norman: University of Oklahoma Press, 1990.
- . "Population Losses during the Trail of Tears: A New Perspective and a New Estimate." *Ethnohistory*, vol. 31, no. 4 (Autumn 1984): 289–300.
- Viola, Herman J. *Thomas L. McKenney: Architect of America's Early Indian Policy, 1816–1830*. Chicago: Sage Books, 1974.
- Wallace, Anthony F. C. *The Long, Bitter Trail: Andrew Jackson and the Indians*. New York: Hill and Wang, 1993.
- Washburn, Wilcomb. "Indian Removal Policy: Administrative, Historical and Moral Criteria for Judging Its Success or Failure." *Ethnohistory*, vol. 13, no. 3 (Summer 1965): 274–278.
- Young, Mary E. "Indian Removal and Land Allotment: The Civilized Tribes and Jacksonian Justice." *The American Historical Review*, vol. 64, no. 1 (October 1958): 31–45.

Reservations

The tribal enclaves known as Indian reservations originated in the colonial period as a way to keep Indians and whites apart. From the outset, they facilitated the work of government agents, missionaries, and others charged with safeguarding the Indians' well-being and promoting their acculturation. In the nineteenth century reservations became the focal point of policies designed to consolidate tribes and force the assimilation of Native Americans into mainstream society. Paternalism continued to mark the management of Indian affairs through the twentieth century, but reservations became increasingly autonomous in the last half of the century. This was due to initiatives launched by tribal governments and Indian rights activists who wanted to take greater control over their territory and the lives of their people and those launched by policy makers intent on reducing federal responsibility for the reservations.

The Tribal Nation, Sovereignty, and the Reservation

Most present-day reservations were created by treaties, acts of Congress, and executive orders that were originally devised to isolate Indians, extinguish their rights to their lands, and prepare them for assimilation into the United States. Early in its history the United States used treaties to conduct relations with Indian communities, a policy that was based on the presumption that the tribes were sovereign nations. Consequently, modern Indian reservations possess

sovereign rights not enjoyed by other political units in the United States. Tribal governments on reservations are thus largely exempt from state regulation and taxation. For that reason, they are able to operate casinos; control Indian-on-Indian crime; regulate commerce, hunting, and fishing; and engage in other political and legal actions without interference or intrusion by the states. Tribes on reservations are, however, subject to the authority of, and participate in programs provided by, the federal government.

More than two centuries of changing federal Indian policy have affected all reservations and their residents in similar ways. Today, the Bureau of Indian Affairs (BIA, formerly the Office of Indian Affairs, OIA) oversees the reservations on behalf of the U.S. Department of the Interior. Most Indian nations on reservations have their own governing structure, usually an elected tribal council, and their own justice system, including laws, police, and courts. Some, like the Navajo Nation, levy their own taxes. Health care provision is supported by the Indian Health Service, an agency within the federal Public Health Service. Many tribal nations have their own schools, which operate under the supervision of the Bureau of Indian Education. Most are also subject to special land use regulations. A few reservations, like that of the Mohegan Tribe in Connecticut, were established for American Indian tribes that only recently won federal recognition and the special powers that status entails.

There are nearly 300 recognized American Indian Areas in the United States today. That figure includes pueblos, rancherias, and other types of communities. Except for the Annette Island Indian Reserve in Alaska (home to Tsimshians, Tlingits, and Haidas), all of them are located in the contiguous 48 states. Most are west of the Mississippi or in the Great Lakes area.

The vast majority of the land holdings in American Indian Areas are held in trust by the federal government, which currently holds more than 55 million acres of land in trust for Indian tribes, groups, and individuals. Not all of that is reservation land, nor is all reservation land held in trust. Moreover, not all land within a reservation's borders is necessarily owned by tribal members. Non-Indians own or lease significant acreage on many reservations, leading to the "checkerboard" landownership pattern found, for example, on the Yakama (Oregon) and Southern Ute (Colorado) reservations. There are several state reservations; these are geographically small and located mainly in the east. Most of these were established during the colonial period and were later recognized (often just recently) by the state legislatures.

In the last few decades, several states have established recognition processes and are acknowledging Native communities as state-recognized tribes.

Not every tribal nation has a reservation. Some have their own while others share. A few, such as the Minnesota Chippewa Tribe, have more than one reservation. In some cases, traditional allies occupy a reservation, as do the Mandans, Hidatsas, and Arikaras of the Fort Berthold reservation in North Dakota. In other cases, the federal government settled tribes with a history of animosity together on a reservation, which complicated their transition to reservation life. Such was the case with the Klamaths and Modocs, who, along with the Yahooskins, share the Klamath reservation in Oregon. When it was first established, tension between the Modocs and Klamaths prompted some Modocs to leave the reservation, setting in motion a chain of events that culminated in the Modoc War (1872–1873). Tribes like the Assiniboiné and Gros Ventre of the Fort Belknap reservation in Montana made a smoother transition to life on a shared reservation despite prior tribal enmity. In contrast, the origins of the longstanding dispute between the Navajos and Hopis over lands in the Navajo-Hopi Joint Use Area lie in the expansion of the Navajo reservation after its creation. The Navajo Hopi Settlement Act of 1974 sought to resolve the dispute by partitioning the area and relocating several hundred Navajo families.

More than four million people self-reported Native American or Alaska Native ancestry on the 2000 census. About 2.4 million, or 1% of the U.S. population, reported their race as only Native American or Alaska Natives. Not all of them, however, are enrolled tribal members, and not all tribal members live on reservations. According to the U. S. Census, about 34% of Native Americans and Alaska Natives live on reservations or in similar areas. Many others maintain strong ties to reservation communities and return regularly to visit friends and family and participate in religious and cultural events. The Navajo reservation, home to more than 175,000 tribal members, is the most populous reservation today. It spans parts of Arizona, New Mexico, and Utah. The ten largest reservations in terms of acreage are in Montana (Blackfeet), Arizona (Fort Apache, Gila River, Navajo, San Carlos, Tohono O'odham, Zuni), South Dakota (Pine Ridge, Rosebud), and North Dakota (Turtle Mountain). Despite widespread poverty on the reservations, many Native Americans value them as repositories of traditional culture and sites of self-determination.

Indian Land and Treaty Making

Reservations were at the heart of the policy framework for managing Indian affairs established at the outset of the new republic. The Second Continental Congress created an Indian Department to oversee Indian affairs in 1775. From 1778 onward, the U.S. government used treaties and statutes to create reservations. In doing so, the government recognized tribal title over certain lands and extinguished it over others. When adopted in 1789, the U.S. Constitution authorized Congress to regulate trade with the Indian tribes (the commerce clause of Article II of the Constitution) and made treaties part of the “supreme law of the land” (Article VI of the U.S. Constitution). In the years that followed, Congress gradually assumed plenary (or complete) power over Indian affairs and the right of eminent domain over Indian lands. Numerous U.S. Supreme Court decisions upheld that assumption of power. During the 1790s Congress passed a series of largely ineffectual trade and intercourse acts aimed at safeguarding Indian lands and keeping Indians and whites apart.

Increasing conflict between Indians and whites, especially as white settlement pressed westward, prompted Congress to pass the Indian Removal Act in 1830. The act authorized the negotiation of treaties leading to the exchange of tribal territories within the existing United States for lands west of the Mississippi River—an approach that President Andrew Jackson (1829–1837) favored as a solution to the so-called Indian problem. Although few tribes wanted to relocate, the U.S. government by coercion, force, and relentless duress ultimately relocated most of the eastern tribes to new lands west of the Mississippi. Those relocated west of the Mississippi initially occupied the land free of any sort of governmental control, unlike those tribal groups that were settled on reservations (usually) under federal control. In all, more than 100,000 Native Americans were removed, often with tragic consequences. Thousands more died as a direct result of the removal policy. The U.S. government acquired over 15 million acres of Indian land and then redistributed it to American speculators and settlers.

Reservations in the West

As the U.S. population swelled after the removal era, pressure mounted to open lands west of the Mississippi to settlement and to open the natural resources they contained to exploitation by American speculators and industry. The idea of an Indian Territory beyond white settlement soon gave

way to a policy of isolating tribes on reservations. Congress moved the Office of Indian Affairs from the War Department to the Department of the Interior in 1849, and the new department assumed responsibility for public and Indian lands and all other matters pertaining to Native Americans. For the next three decades it pursued a policy laid out in 1851 by Luke Lea, commissioner of Indian affairs under President Millard Fillmore (1850–1853). That policy established the reservation system as the main vehicle for promoting the Indians' acculturation. George W. Manypenny, commissioner of Indian affairs under President Franklin Pierce (1853–1857), implemented and further refined the policy. He believed that reservations were the only alternative to extermination. Once on reservations, he argued, government agents and missionaries could bring "civilizing forces" to bear on the Indians that would, in time, enable them to enter mainstream society as equal and productive members.

Treaties like those forged with the Lakotas, Cheyennes, Crows, and other northern Plains groups at Fort Laramie in 1851 and with the Comanche, Kiowa, Apache, and other southern Plains groups at Fort Atkinson in 1853 reserved an area of land for the exclusive use of the signatory tribes. Sometimes that land was part of their ancestral homelands and sometimes it was not. Nearly always it was out of the way of the advancing whites. Often reservations were diminished by subsequent treaties and agreements. The treaties promised tribes and other Indian groups goods, services, cash payments, and annuities in exchange for land cessions. Despite such acculturation-promoting inducements, most tribes only signed the treaties under duress. Once signed, they were often unilaterally altered before ratification by Congress. In many cases, the United States reneged on promises made in the treaties, which prompted some tribal members to respond with breaches of their own.

Reservation conditions were harsh. In most cases, the Indians were no longer free to travel as they wished or engage in traditional religious and cultural practices. Moreover, the reservation system was designed to undermine their political and economic structures. The Indians often found the annuities and promised goods inadequate or not forthcoming and their new land unsuited to farming. Corrupt officials also siphoned off goods and rations intended for Indians.

For many, reservation life came to mean social disorganization, corrupt officials, illness, and starvation. Some individuals and bands refused to settle on the reservations, and oth-

ers did but soon left out of frustration or desperation. Those who remained suffered immensely. The hardship and corruption they encountered sometimes contributed to an escalation of conflict with the whites.

Frustrated Cheyennes, for example, left their reservation in 1864 and began raiding white communities, despite calls for restraint by leaders like Black Kettle. Colorado militiamen retaliated by attacking Black Kettle's village on Sand Creek in Colorado Territory, killing about 150 people and mutilating their bodies. Black Kettle continued to advocate peace. Four years later Lt. Col. George Armstrong Custer and the Seventh Cavalry allegedly tracked Cheyenne raiders back to his village on the Washita River in Indian Territory. The troops killed over a hundred Cheyennes, including Black Kettle. Events such as these prompted calls for a general reform of U. S. Indian policy.

After the American Civil War many reformers who came from the religious and philanthropic organizations in the East argued that the time for gradual acculturation had passed. President Ulysses S. Grant (1868–1877) responded to these demands, and to allegations of corruption in the Indian Service, with his "Peace" or "Quaker" Policy. The Peace Policy shifted much of the responsibility for the reservations from political appointees or former army officers to the churches in an attempt to promote honest management of Indian agencies and to help speed up the Indians' rate of acculturation. The policy called for the isolation of the western tribes on reservations and for the use of force against those Indians who refused to accept reservation life. Among them were Lakotas (Sioux), led by Sitting Bull and Crazy Horse, and Cheyennes, led by Two Moons, who annihilated Custer and everyone under his immediate command when the Seventh Cavalry attacked their village in the Battle of Little Bighorn in 1876. Despite their victory, the resisting Indians were eventually forced back to their reservations. The next year, threatened with military force after refusing to relocate with other members of the tribe, a band of Nez Perce led by Chief Joseph fled their homeland in what is now Washington State. The army chased them for three months and 1,700 miles before Chief Joseph finally surrendered and agreed to "fight no more forever." In every case, resistant tribes or groups were eventually defeated by U. S. forces and removed to reservations.

Allotment and Assimilation

Congress abandoned its policy of recognizing the sovereignty of the tribes and formally ended treaty making with statu-

tory language inserted in the House Appropriations Act of 1871. From then until 1919, the creation of a new reservation required an executive order or an act of Congress. After 1919, only an act of Congress could create a reservation.

By the late 1870s Congress was looking for ways to streamline the reservation system and cut costs. In 1879 a corruption scandal in the Indian Service and attempts by Dull Knife's band of Cheyennes and Standing Bear's band of Poncas to return to their homelands rather than settle on their assigned reservations focused public attention on the system's failures. Reformers and Indian agents were increasingly critical of the reservations, which they believed hindered the "civilizing mission" by perpetuating tribal identity. Their arguments, coupled with fiscal concerns, prompted a shift to assimilation as the federal policy objective.

Policy makers developed a three-pronged approach to undermining the Indians' tribal identity and speeding their assimilation into mainstream society. It involved educating Indian children away from the "corrupting" influences of their reservations, reducing the tribal land base, and encouraging citizenship. Commissioner of Indian Affairs Henry Teller (1882–1885) and reformers like anthropologist Alice Fletcher championed education as the route to assimilation. Consequently, from the early 1880s onward many Indian children were taken away to boarding schools, often without their families' consent. They received practical training in reading, writing, and arithmetic and the manual skills deemed necessary for their success as productive and fully integrated members of white society. The adult roles envisaged for them were those of land-owning farmers and ranchers and their wives.

Congress targeted the communally held reservation lands more directly. Policy makers realized they could save money and weaken tribalism by breaking up the tribal land base. They also saw the allotment of Indian land as a way to open additional lands to settlers. Moreover, they thought the more "civilized" ways of the settlers might inspire the Indians to adopt the habits of mainstream society. The new approach reflected the government's long-standing strategy of individuating the Indians by transforming them into land-owning, economically self-sufficient farmers and ranchers who would vanish forever into the general population.

The General Allotment Act of 1887 was the cornerstone of this emerging assimilationist strategy. Also known as the Dawes Severalty Act after its architect, Sen. Henry L. Dawes of Massachusetts, it provided for the allotment of tribally held lands to individual Indians, usually in 160-acre parcels. The

allotted lands carried inalienable trust patents for 25 years to prevent allottees from selling or leasing them without government approval. Policy makers assumed that at the end of the trust period the Indians would be competent to manage their own affairs and readily assimilate into the American mainstream as tax-paying citizens. A key clause allowed non-Indians to buy the lands left after all eligible tribal members had received their allotments, which policy makers justified as a way to generate revenue for the reservations.

The Dawes Act did not cover the five large tribes from the Southeast (Cherokee, Chickasaw, Choctaw, Creek, and Seminole) that had been removed to Indian Territory in the 1830s. It was not until 1898 that Congress passed the Curtis Act to provide for the allotment of their lands. Meanwhile, other congressional and judicial actions limited tribal jurisdiction. The Indian police forces that had long operated on many reservations became official when Congress appropriated funds and established guidelines for them in 1878. In 1884 Congress established the Court of Indian Offenses to enable tribes to better deal with crimes committed on their lands. The next year, however, it passed the Major Crimes Act. That act, upheld by the Supreme Court decision handed down in *United States v. Kagama* (1886), gave the federal government jurisdiction over seven major crimes committed on the reservations. In doing so, it limited the role of the Indian police, the jurisdiction of the Court of Indian Offenses, and the sovereignty of tribal nations. The Dawes Act made further inroads into tribal jurisdiction by subjecting allottees to state and federal law.

In 1906 Congress passed the Burke Act to correct shortcomings in the Dawes Act. It expanded the federal control over Indian lands and their resources and paved the way for removal of federal restrictions on lands held by Indians deemed competent to manage their own affairs. Through a process known as forced fee patenting, such lands were removed from federal trust. Once fee patented, such lands became subject to state taxation and available for lease or sale by their owners. Many Indians did not know their lands had been fee patented and failed to pay their taxes; others could not afford to pay them. In both cases, they were forced to sell their lands or had them seized for back taxes, a situation faced by hundreds of allottees on the White Earth Reservation in Minnesota.

The 1910 Omnibus Act, under the pretext of resolving the fractionated heirship that adversely affected many Indian land-holdings, furthered the agenda set in the Burke Act by establishing competency commissions to identify individuals

capable of managing their own affairs. It also authorized the secretary of the interior to lease or sell Indian lands with or without the landholder's consent. Commissioner of Indian Affairs Cato Sells (1913–1921) actively encouraged his staff to force fee patent status on lands held in trust for those Indians deemed competent. All told, the Dawes, Curtis, and Burke acts resulted in the transfer of about 28.5 million acres from Indian to non-Indian hands between 1887 and 1900 and an additional 23.5 million acres between 1900 and 1921. The patchwork pattern of Indian and non-Indian land holding seen today on most reservations is largely due to the implementation of these legislative acts.

Recognizing it as a fundamental threat to their tribal integrity, most tribes strongly resisted allotment, but only a few realized any measure of success. The traditional chiefs of the Red Lake Indian reservation in Minnesota were the most successful. They managed to resist allotment during negotiations for the 1889 Nelson Act, which sought to consolidate the Chippewas living in Minnesota on the White Earth reservation. As a result, the Red Lake band's reservation remained intact for the tribe's collective use. Because the band avoided allotment, it suffered fewer inroads into its sovereignty and jurisdiction than, for example, the six reservations of the Minnesota Chippewa Tribe.

The Kiowas of Oklahoma, led by Lone Wolf, also strongly resisted allotment in their 1892 negotiations with the Jerome Commission, which was appointed to conclude allotment settlements with the tribes in the Indian Territory. Eventually the commission claimed to have secured the consent of the majority of the tribe. Lone Wolf and other Kiowas disagreed, arguing that many of the signatures obtained were fraudulent. Their objections notwithstanding, allotment of Kiowa land proceeded. Lone Wolf took legal action to stop it. The U.S. Supreme Court ruled against the Kiowas in 1903. The Court's landmark decision in *Lone Wolf v. Hitchcock* reaffirmed that Congress held plenary authority over Indian affairs, including the power to break Indian treaties and dispose of treaty-protected lands at its discretion. The Osage Indians of Oklahoma also resisted allotment. They, too, were unsuccessful, but the 1906 Osage Allotment Act contained provisions not seen in most others. Not only were all of Osage lands allotted, the Osages communally retained the mineral rights for a 25-year period.

While steadily eating away at the tribal land base, the federal government also worked to undermine the Indians' tribal identity by encouraging them to become U.S. citizens. The Act of 1919 granted citizenship to those Indians who had

served in the military during World War I. Then, in 1924, the Indian Citizenship Act granted U.S. citizenship to all Indians in the United States, whether they wanted it or not.

Indian New Deal

After World War I, groups like the American Indian Defense Association, headed by John Collier, pressed for sweeping reforms in U.S. Indian policy. Rather than continue to work towards terminating federal responsibility for the Indians by forcing their assimilation into mainstream society and ending the reservation system, they called for tribal self-determination. Partly in response to pressure exerted by Collier's forces, the OIA commissioned a survey of the situation on the reservations. A team of experts headed by Lewis Meriam reported its findings in *The Problem of Indian Administration* (1928). The *Meriam Report* was highly critical of federal Indian policy. It condemned the long-standing emphasis on Indian property over Indian persons and recommended an approach that embraced cultural pluralism rather than forced assimilation. The report described deplorable living conditions on the reservations, including widespread poverty, inadequate housing, chronic health problems, poor education, and social and economic dependency. It also detailed the failures of the allotment and forced assimilation policies in general.

In the late 1920s and early 1930s, economic conditions on the reservations worsened, as they did across the country. During Herbert Hoover's presidency (1929–1933) policy makers implemented some of the *Meriam Report's* recommendations, mainly in the areas of health care and education, but it was not until 1934 that Congress finally passed legislation in line with Collier's vision. Congress passed the Indian Reorganization Act (IRA) the year after Collier became commissioner of Indian affairs (1933–1945). It was a hard-won compromise between advocates of assimilation and self-determination and reflected Congress's continuing reluctance to support measures likely to prolong the Indians' special status. While the final bill was perhaps disappointing to Collier, the IRA nonetheless constituted a major break with the past. Not only did it discontinue the attack on the tribal land base by ending allotment and providing for the return to trust status of formerly ceded lands remaining in the public domain, it also encouraged tribal self-government and economic development on the reservations. Nearly 175 tribes, bands, and communities incorporated and adopted constitutional governments under the IRA. Despite its continuing paternalism and other shortcomings, in the two

decades after the IRA's passage, the federal government invested unprecedented amounts of money in infrastructure, health care, and education on the reservations. The most important outcome of the IRA, according to many Native Americans, was the restoration of the tribal land base. Between 1935 and 1937 over two million acres reverted to the tribes, and they regained control of seven million acres of leased grazing lands.

The Collier administration took other steps to better reservation living conditions and return control to Native American communities. In 1934 Congress passed the Johnson-O'Malley Act to subsidize states and territories for the education, medical care, and other services they provided Indians living within their borders. Two years later it passed the Oklahoma Indian Welfare Act, which restored the right of government to tribes that had lost it upon Oklahoma statehood. Collier also promoted American Indian cultural traditions by establishing an Indian Arts and Crafts Board and revoking policies that banned such religious rituals as the Sun Dance and sacramental use of peyote or that forced Indians to take part in Christian services.

Termination and Relocation

After the Second World War some federal officials came to believe the Office of Indian Affairs had outlived its purpose. They argued that the reservations the OIA oversaw impeded the Indians' assimilation into mainstream society. In 1946 Congress created the Indian Claims Commission to settle claims levied against the federal government by the tribes. Although depicted as a major victory for the Indians, it paved the way for termination of federal responsibility over them by resolving outstanding issues with cash payments that could supposedly support economic development on the reservations. A year later Acting Commissioner of Indian Affairs William Zimmerman (1948–1949) told a Senate committee that the Menominees and Klamaths were sufficiently acculturated to warrant their removal from federal jurisdiction.

Pressures for assimilation returned to the Indian policy agenda in the early 1950s. In the aftermath of World War II and the tension of the cold war era, members of Congress sought to cut federal spending and to promote national unity rather than pursue cultural pluralism. In 1953 Congress passed two major pieces of legislation aimed at reducing federal responsibility for the Indians. House Concurrent Resolution 108 called for the termination of federal control over tribes deemed capable of managing their

own affairs, and Public Law 280 granted several states civil and criminal jurisdiction over the Indians within their borders. In 1954 Congress transferred the Indian Health Service from the Bureau of Indian Affairs to the U.S. Public Health Service. That same year it began considering termination bills for several tribes.

The National Congress of American Indians and other Indian rights groups fought termination, but by 1961 Congress had terminated federal responsibility for the Menominee, Klamath, and several other tribes. Besides ending federal responsibility for the tribes, termination denied tribal members access to the health care, education, and other services upon which they depended. For the reservation communities affected, termination was disastrous. It left many people destitute; with no means to pay their taxes they soon lost their lands. Communally held lands were sold to generate badly needed revenue. Many individuals and families migrated to urban areas in search of work. James White (Menominee) and Ada Deer (Menominee) founded Determination of Rights and Unity for Menominee Stockholders (DRUMS) in 1970 to resist development of former tribal lands by non-Indian corporations and to petition Congress for reinstatement of their reservation and status as a federally recognized tribe. National Indian rights groups joined them in the campaign for restoration. Restoration, like termination, proceeded tribe by tribe. Congress passed the Menominee Restoration Act in 1973, and over the next two decades other tribes had their trust status restored, including the Ottawas, Paiutes, Klamaths, and Poncas.

Commissioner of Indian Affairs Dillon S. Myer (1950–1953), a leading proponent of termination, sought to resolve the unemployment problem on the reservations by relocating young Indians to urban and industrial areas. Between 1950 and 1967, the relocation program encouraged more than 61,600 Indians to move from their rural homes to urban areas. Myer's successor, Glen Emmons (1953–1961), introduced the Indian Vocational Training Act, which Congress passed in 1956. It created off-reservation training and on-the-job training opportunities nearer to home for Native Americans. Despite those programs, by the late 1950s nearly half those relocated had returned to their reservations.

Reservations Today

The pendulum swung back towards self-determination as the policy objective in the early 1960s. The change was due

in part to the liberal social and political climate of the Vietnam War and civil rights era and in part to pressures exerted by tribal leaders and the Red Power and Indian rights movements. Phileo Nash, commissioner of Indian affairs from 1961 to 1966, introduced a series of initiatives designed to enhance political and economic development on the reservations. These measures strengthened reservation economic infrastructures, promoted education, and created on-the-job training programs in urban areas and on or near the reservations. Many tribal leaders used programs under President Lyndon B. Johnson's (1963–1969) War on Poverty to bolster their social welfare programs and strengthen their governments. Critics charged that such federal initiatives were paternalistic and promoted acculturation; nonetheless, tribal leaders used them to better the lives of their people.

Congress passed the Indian Self-Determination and Education Assistance Act in 1975. It transferred a large degree of administrative responsibility to the reservations by placing education and social service programs under tribal control. In the years that followed, tribes launched social welfare and educational programs and opened community colleges geared to the needs of tribal members. In 1978 Congress passed the American Indian Religious Freedom Act, which extended the constitutional guarantees of religious freedom to Native American religious practices. Several terminated tribes also had their status restored during this period, and the Supreme Court handed down a series of decisions that upheld tribal sovereignty, thereby supporting self-determination. Then, in the late 1970s, tribes like the Minnesota Chippewa Tribe began pursuing individual land claims arising out of irregularities in the allotment process.

The trend toward increasing tribal self-determination continued into the next decade. Congress passed the Indian Tribal Government Tax Status Act in 1982. It bolstered tribal sovereignty by enabling tribal governments to issue tax-exempt revenue bonds. In 1988, after the *California v. Cabazon Band of Mission Indians* decision established the right of reservations to run gambling operations, Congress passed the Indian Gaming Regulatory Act to define the circumstances under which they could do so. Since then, tribally run casinos have become a major tourist attraction and an important source of jobs and revenue on many reservations. By the 1980s federal Indian policy had finally come full circle to an acknowledgment of Native American tribal sovereignty.

Assaults on tribal sovereignty were renewed, however, in the 1990s. Funding cuts to Indian programs and legal deci-

sions weakening tribal authority have cast doubt on whether there is a stable consensus behind a policy of self-determination. Moreover, threats to natural resources under tribal control have continued. The future for sovereignty and prosperity on reservations remains uncertain.

See also *Alaska Natives; Allotment in Severalty; American Indian Defense Association; American Indian Religious Freedom Act; Annuities; Assimilation and Acculturation; Black Kettle; Bureau of Indian Affairs; Burke Act; California v. Cabazon Band of Mission Indians (1987); Collier, John; Courts of Indian Offenses; Crazy Horse; Crime, Regulating in Indian Country; Curtis Act; Custer, George Armstrong; Daves, Henry L.; Deer, Ada; Determination of Rights and Unity for Menominee Stockholders (DRUMS); Dull Knife; Education: Boarding Schools; Education: Reservation Schools; Fishing, Hunting, and Gathering Rights; Fletcher, Alice Cunningham; Fort Laramie (1851), Treaty of; Gaming; General Allotment Act (Daves Act) of 1887; Grant, Ulysses S.; Hoover, Herbert; Hopi-Navajo Relations; House Concurrent Resolution 108; Indian Appropriations Act (1871); Indian Arts and Crafts Act; Indian Citizenship Act; Indian Claims Commission Act; Indian Commerce Clause; Indian Gaming Regulatory Act; Indian Health and Healthcare; Indian New Deal; Indian Peace Commission; Indian Removal Act (1830); Indian Reorganization Act (1934); Indian Rights Movements; Indian Self-Determination and Education Assistance Act; Indian Territory; Indian Tribal Government Tax Status Act; Indian Vocational Training Act; Jackson, Andrew; Johnson, Lyndon B.; Johnson-O'Malley Act; Joseph, Chief; Little Bighorn (1876), Battle of; Lone Wolf v. Hitchcock (1903); Major Crimes Act (1885); Manypenny, George W.; Meriam Report; Modoc War; Myer, Dillon S.; Nash, Philleo; National Congress of American Indians; Native American Church; Oklahoma Indian Welfare Act; Plenary Power Doctrine; Public Law 280; Pueblos; Rancherias; Relocation Program; Removal; Sand Creek Massacre; Self-Determination; Sells, Cato; Sitting Bull; Standing Bear; Taxation; Teller, Henry M.; Termination and Restoration; Trade and Intercourse Acts; Treaties: Historical Overview; Treaty Substitutes: Agreements and Executive Orders; Tribal Acknowledgment (Federal); Tribal Acknowledgment (State); United States v. Kagama (1886); Westward Migration; World War I, American Indians and; World War II, American Indians and.*

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BIBLIOGRAPHY

- Asher, Brad. *Beyond the Reservation: Indians, Settlers, and the Law in Washington Territory, 1853-1889*. Norman: University of Oklahoma Press, 1999.
- Biolsi, Thomas. *Organizing the Lakota: The Political Economy of the New Deal on the Pine Ridge and Rosebud Reservations*. Tucson: University of Arizona Press, 1992.
- Castile, George Pierre, and Robert L. Bee, eds. *State and Reservation: New Perspectives on Federal Indian Policy*. Tucson: University of Arizona Press, 1992.
- Deloria, Vine Jr., and Clifford Lytle. *The Nations Within: The Past and Future of American Indian Sovereignty*. New York: Pantheon Books, 1984.

- Dippie, Brian W. *The Vanishing American: White Attitudes and U.S. Indian Policy*. Middletown, Conn.: Wesleyan University Press, 1982.
- Fixico, Donald L. *Termination and Relocation: Federal Indian Policy, 1945-1960*. Albuquerque: University of New Mexico Press, 1982.
- Hoxie, Frederick E. *A Final Promise: The Campaign to Assimilate the Indians, 1880-1920*. London and New York: Cambridge University Press, 1984.
- Jorgenson, Joseph B. "A Century of Political Economic Effects of American Indian Society, 1880-1980." *Journal of Ethnic Studies* 6, no. 3 (1978): 1-74.
- Meriam, Lewis, et al. *The Problem of Indian Administration*. Baltimore, Md.: Johns Hopkins Press, 1928.
- Meyers, Melissa L. *The White Earth Tragedy: Ethnicity and Dispossession at a Minnesota Anishinaabe Reservation, 1889-1920*. Lincoln: University of Nebraska Press, 1994.
- O'Brien, Sharon. *American Indian Tribal Governments*. Norman: University of Oklahoma Press, 1989.
- Ogunwale, Stella U. for the U.S. Bureau of the Census. *We the People: American Indians and Alaska Natives in the United States*. Census 2000 Special Reports, CENSR-28. Washington, D.C.: U.S. Department of Commerce, February, 2006.
- Otis, Delos Sacket. *The Dawes Act and the Allotment of Indian Lands*. Norman: University of Oklahoma Press, 1973.
- Parman, Donald L. *The Navajos and the New Deal*. New Haven: Yale University Press, 1976.
- Peroff, Nicholas C. *Menominee Drums: Tribal Termination and Restoration, 1954-1974*. Norman: University of Oklahoma Press, 1982.
- Phillips, George Harwood. *Indians and Indian Agents: The Origins of the Reservation System in California, 1849-1852*. Norman: University of Oklahoma Press, 1997.
- Prucha, Francis Paul. *American Indian Treaties: The History of a Political Anomaly*. Berkeley: University of California Press, 1994.
- . *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Tennert, Robert A., Jr. *Alternative to Extinction: Federal Indian Policy and the Beginnings of the Reservation System, 1846-1851*. Philadelphia: Temple University Press, 1975.

Reserved Rights Doctrine

U.S. Indian law uses the term "reserved rights" to describe either rights kept by tribes in treaties selling or giving up tribal land claims or rights conferred by the U.S. government along with land grants.

One right often reserved by tribes is the continued use of their traditional hunting and fishing grounds. An example of this can be found in the 1859 treaty yielding the Yakama Nation's land claims within present-day Washington State. The treaty reserved "the right of taking fish at all usual and accustomed places, in common with citizens of the Territory, and of erecting temporary buildings for curing them." The Yakama tribe's continued right to fish at traditional off-reservation spots on the Columbia River, subject only to reasonable regulation, was affirmed in *United States v. Winans* (1905). Later, in *United States v. Washington* (1973), the U.S. District

Court in Seattle limited the state of Washington's power to regulate tribal fishing on the Columbia "to the extent necessary to protect the fishery resource."

Reserved rights need not be stated in writing and may instead be "implied" from the circumstances or other terms of a treaty. In *Winters v. United States* (1908), the U.S. Supreme Court held that the treaty establishing Montana's Fort Belknap reservation implicitly included the usage of Milk River water needed for farming, although the treaty itself did not specifically mention irrigation water. In *Arizona v. California* (1963), which involved the Colorado River reservation, the Supreme Court clarified *Winters* by holding that a tribe's implied right to irrigation water includes "reasonably foreseeable needs," which are measured by the reservation's total irrigable acreage rather than just the acres currently being farmed.

See also *Fishing, Hunting, and Gathering Rights*; *United States v. Winans*; *Water Rights*; *Winters v. United States*.

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BIBLIOGRAPHY

- Arizona v. California*, 373 U.S. 546 (1963).
- Blumm, Michael C., and James Brunberg. "Not Much Less Necessary . . . Than the Atmosphere They Breathed": Salmon, Treaties, and the Supreme Court—a Centennial Remembrance of *United States v. Winans* and Its Enduring Significance." *Natural Resources Journal*, vol. 46, no. 2 (2006): 489-546.
- Ranquist, Harold A. "The *Winters* Doctrine and How It Grew." *Brigham Young University Law Review*, vol. 1 (1975): 639-724.
- Shurts, John. *Indian Reserved Water Rights: The Winters Doctrine in its Social and Legal Context, 1880s-1930s*. Norman: University of Oklahoma Press, 2000.
- United States v. Washington*, 384 F.Supp. 312 (W.D. Wash. 1974).
- United States v. Winans*, 198 U.S. 371 (1905).
- Winters v. United States*, 207 U.S. 564 (1908).

Restricted Lands

Most Indian tribal lands, and most individual Indian allotments, are held in trust by the federal government. In eastern Oklahoma, however, tribal land and allotments may be held in restricted fee status. In the early twenty-first century, the distinction is largely technical: trust lands are owned by the United States in trust for the tribe or individual; restricted lands are owned by the tribe or the individual subject to the same restrictions as trust lands. Neither trust nor restricted land may be sold, encumbered, or taxed without the consent of Congress. Both trust and restricted lands are considered Indian Country.

The restricted status of land arises from the treaties with the so-called Five Tribes (Cherokees, Choctaws, Seminoles, Chickasaws, and Creeks) that were removed to Oklahoma from the Southeast in the 1830s. The 1833 treaty with the Creeks is typical; Article III provides that “[t]he United States will grant a patent, in fee simple, to the Creek nation of Indians for the land assigned said nation by this treaty or convention.” Even though the lands of the Five Tribes were held in fee, however, they were also subject to the Nonintercourse (Trade and Intercourse) Act. That law, first enacted in 1790 and last amended in 1834, provides that federal consent is required for any “purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto, from any Indian nation or tribe of Indians.” The “fee” of the Indian tribes of eastern Oklahoma is consequently subject to the restrictions of the Nonintercourse Act.

See also *Trust Lands*.

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BIBLIOGRAPHY

Trade and Intercourse Act, 25 U.S.C. 177 (1790).
Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*.
Newark, N.J.: LexisNexis, 2005.

Revolutionary War

See *American Revolutionary War (1775–1783)*.

Rhoads, Charles J.

Charles James Rhoads (1872–1954) served as commissioner of Indian affairs during the Herbert Hoover administration (1929–1933). Born in Germantown, Pennsylvania, Rhoads was a devout and active member of the Society of Friends. In 1897 he joined the Indian Rights Association, an organization that advocated Native assimilation, and served as its treasurer until 1927, when he was named president. On April 18, 1929, President Hoover appointed Rhoads as commissioner of Indian affairs. One of Rhoads's first acts was to appoint long-time associate Joseph Henry Scattergood as assistant commissioner.

The Rhoads-Scattergood administration inherited a ready-made reform agenda in the 1928 report *The Problem of Indian Administration* (more commonly known as the *Meriam Report*), the product of an independent study that examined the conditions of Indians in the United States. In December 1929 Rhoads sent letters to the committees on Indian affairs

in Congress outlining four main goals. The first dealt with problems associated with reimbursable loans that Indians had to pay on irrigation projects that the federal government had completed on reservation lands. The second dealt with the issue of tribally held resources such as minerals, timber, oil, and grasslands. Rather than continuing Department of the Interior oversight of these resources, Rhoads suggested that tribes form corporations to manage them. A third goal concerned tribal land claims and the need to create a claims commission to address longstanding complaints. The final goal dealt with Indian irrigation projects and their transfer to the Bureau of Reclamation.

Battling powerful economic forces unleashed by the Great Depression and under intense criticism from Indian reform groups impatient for change, Rhoads found his final months as commissioner filled with angry accusations. He resigned from office on April 20, 1933, following Franklin D. Roosevelt's victory in the 1932 election. Rhoads's successor, John Collier, implemented some of his proposed reforms, such as the idea of establishing tribal quasi-municipal corporations, in the Indian Reorganization Act of 1934. In 1946 the United States established the Indian Claims Commissions as Rhoads had suggested.

See also *Collier, John; Hoover, Herbert; Indian Claims Commission Act; Indian Reorganization Act (1934); Meriam Report*.

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BIBLIOGRAPHY

Britten, Thomas A. “Hoover and the Indians: The Case for Continuity in Indian Policy, 1900–1933.” *Historian*, vol. 61 (Spring 1999): 519–538.
Kelly, Lawrence C. “Charles James Rhoads.” In *The Commissioners of Indian Affairs, 1824–1977*, edited by Robert M. Kvasnicka and Herman J. Viola, 263–271. Lincoln: University of Nebraska Press, 1979.
Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
Tyler, S. Lyman. *A History of Indian Policy*. Washington, D.C.: Government Printing Office, 1973.

Rhode Island, Indian Policy of

The colony of Rhode Island's Indian policy began with a single man: Roger Williams. Banished from Massachusetts for his unorthodox views, Williams founded his own settlement on Narragansett Bay in 1636. The Narragansetts welcomed an English town in their midst, as it gave them access to European trade, and Williams further endeared himself to his

Native neighbors by learning their language. Unlike some Puritan leaders, Williams insisted upon purchasing the land for his settlement and strictly adhered to the terms of the sale.

In 1636, when Connecticut started an aggressive war against the nearby Pequots, Williams encouraged the Narragansetts to support the English campaign. After the colonists won the war and began flocking into Rhode Island, one evidently regretful Narragansett sachem began to plan an uprising against the English. The colonists soon caught wind of it and ordered the conspirator executed. While some colonists remained suspicious of the Narragansetts, Williams still believed most were loyal allies. From his perspective, the English were as much of a threat to peace as the Indians.

In their first decade Rhode Island towns were small and sparse, and settlers often traded with Indians for fur pelts. But as the settler population grew in the 1640s and 1650s the English turned to farming. When overhunting depleted their supply of furs, Indians began to barter for land and work as servants on colonial farms. Increasingly, Williams was at odds with his fellow colonists, as few shared his commitment to treating Indians fairly. Williams supported a ban on the sale of liquor or guns to Indians, believing that both led to violence. But Indian servants were exempt from these laws, creating a convenient loophole, and contraband trade continued to flourish. Squabbles between the English and Indians over unscrupulous trading, roaming livestock, and shady land sales contributed to a climate of mutual distrust.

In 1675 King Philip's War (1675–1676) shattered any thoughts of peaceful coexistence. The war, which began as a dispute between Plymouth and the Wampanoags, exploded into a widespread Indian revolt led by the sachem known as Metacom, or King Philip. Williams sought unsuccessfully to keep Rhode Island neutral. But after suffering unprovoked attacks by English soldiers, many Narragansetts sided with Metacom and began to raid the villages of their colonial neighbors. The war proved devastating to both sides, but the victorious English rebounded quickly and soon stripped the defeated Indians of their best lands. Even Williams, who had seen his own house burned to the ground, withdrew his previously unconditional support of Indian rights. In spite of this, Williams remains credited with having established the precedent of recognizing inherent Native rights in Anglo-American Indian policy, and his legacy served to inspire later reformers of federal policy.

In 1709 the colony of Rhode Island created a reservation in Charlestown. Intended for the Narragansetts, it became a

home for Native peoples throughout the area. In the following centuries, many Rhode Island Indians worked on farms and whaling ships, or sold handmade crafts. Their legal and social status was nearly the same as that of free blacks, with whom they often intermarried. In spite of losing most of their political and economic power, some maintained ties to their ancestral land and their aboriginal identity. Though the state of Rhode Island broke federal law and “detrified” the Narragansetts in 1884, the tribe waged a century-long legal campaign and eventually recovered its status as a federally recognized tribe in 1983. Its current enrollment stands at around 2,400 members.

See also *Massachusetts, Indian Policy of*; *Williams, Roger*.

Andrew Lipman

BIBLIOGRAPHY

- Calloway, Colin G., ed. *After King Philip's War: Presence and Persistence in Indian New England*. Hanover, N.H.: University Press of New England, 1997.
- James, Sydney V. *Colonial Rhode Island: A History*. New York: Charles Scribner's Sons, 1979.
- LaFantasie, Glenn. “Introduction.” In *The Correspondence of Roger Williams*, edited by Glenn LaFantasie. Hanover, N.H.: University Press of New England, 1988.
- Marshall, Joshua Micah. “‘A Melancholy People’: Anglo-Indian Relations in Early Warwick, Rhode Island.” In *New England Encounters: Indians and Euroamericans ca. 1600–1850*, edited by Alden T. Vaughan. Boston: Northeastern University Press, 1999.
- Narragansett Indian Tribes. “Historical Perspective of the Narragansett Indian Tribe,” <http://00002u9.previewcohosting.com/history.htm>.
- Sainsbury, John A. “Indian Labor in Early Rhode Island.” In *New England Encounters: Indians and Euroamericans ca. 1600–1850*, edited by Alden T. Vaughan. Boston: Northeastern University Press, 1999.

Ridge Family

Major Ridge (c. 1771–1839) and his son John (1802–1839) were prominent figures in Cherokee politics during the first half of the nineteenth century and became renowned as leaders of the Cherokee Nation's “treaty party.”

Major Ridge, the patriarch of the family, was born at Hiwassee in the Cherokee Nation. As a young Chickamauga warrior, he fought white settlers, but his resistance softened as his people's death toll mounted in frontier skirmishes and he began to argue for peace with the Americans. He achieved a reputation as a fine orator and was elected to the Cherokee National Council at the age of twenty-one. In 1806 Ridge executed Cherokee chief Doublehead for selling Cherokee national land without the permission of the

council. To prove his friendship to the United States, Ridge fought as an ally of Andrew Jackson during the Creek War (1813–1814). Before that time, he had been known simply as “The Ridge.” After being awarded the title of major during the Creek War, he was thereafter known as Major Ridge.

Major Ridge educated his son John, who was born in Rome in the Cherokee Nation, to survive in American society by becoming adept at working and living in both Cherokee and American societies. After attending the American Board’s Foreign Mission School in Cornwall, Connecticut, John Ridge wrote for the *Cherokee Phoenix* newspaper and served as an interpreter and secretary in delegations to Washington, D.C. During the 1820s the state of Georgia began pressuring the Cherokees to leave the state; the Ridges were active in opposing that pressure. In the late 1820s, however, the Georgia legislature extended its jurisdiction over the Cherokee Nation and closed their tribal courts and government.

The Ridges were optimistic that the federal government would intervene to put an end to Georgia’s interference in Cherokee affairs. Later, a favorable U.S. Supreme Court ruling in *Worcester v. Georgia*, 31 U.S. 515 (1832), gave them hope that the Cherokees would be able to remain in the Southeast. After President Andrew Jackson refused to restrain Georgia’s encroachments, however, they abandoned their hopes of remaining in the Southeast and began to argue that the Cherokee Nation should make the best deal it could and remove to the West. In addition, because of their marriages to white women, John and his cousin Elias Boudinot encountered intense racial hatred from whites, including northern missionaries who were sympathetic to the Georgia cause. During a mission tour through Washington and parts of the Northeast, the younger Ridge and Boudinot concluded that removal was inevitable and shared their observations with Major Ridge. In 1832, after riding through Cherokee country to view the extent of his people’s hardship and deteriorating morale, Major Ridge concurred and began to promote removal as the only way to preserve the Cherokee Nation.

At a general council on July 23, 1832, a group of men led by Major Ridge issued a statement favoring removal. The Cherokee Council rejected their proposal and instead sent Chief John Ross and his party to Washington, D.C., to reject U.S. offers to purchase Cherokee lands. In November 1834 John Ridge held a meeting in his house with Indian agent Benjamin Currey, which culminated in plans to carry a removal treaty proposal to Washington. Ross responded with his own delegation, and both parties arrived in Washington

in February 1835. Jackson’s government only negotiated with the Ridge party, which represented only a minority of the Cherokee Nation, and sent them back to the Cherokee Nation with a removal treaty that required the approval of a majority of the Cherokee National Council. In council, the treaty met such resistance that even the Ridges voted against it, perhaps out of fear for their lives.

In December 1835 the Ridges, their cousin Boudinot, and a small group of their supporters signed the removal Treaty of New Echota. A vast majority of Cherokees and the Cherokee national government considered the treaty illegal. The treaty ceded the lands of the eastern Cherokees for a new territory in the Indian Territory (in what is now north-eastern Oklahoma) and provided funds for their relocation. At the time he signed the treaty, Major Ridge remarked that he was signing his death warrant. The Ridges quickly moved on to the Indian Territory in 1836. When the main body of the Cherokee Nation arrived there in 1839, a group of twenty Cherokees killed Major and John Ridge and their cousin Elias Boudinot, invoking a tribal law calling for the death of members who signed a removal treaty without the tribe’s approval. Ironically, Major Ridge was the author of this law. (Major Ridge’s nephew, Stand Watie, was warned of the impending attacks and escaped.)

John Ridge left a son, John Rollin Ridge (1827–1867), who became known as a poet and the first Native American novelist. John Rollin also served as editor of several publications, including the *Sacramento Bee* and the *San Francisco Herald*. After the Civil War (1861–1865) he worked unsuccessfully to have the Cherokee Nation admitted into the Union as a state.

See also Boudinot, Elias; *Extension Laws*; *Indian Removal Act* (1830); Jackson, Andrew; *New Echota* (1835), *Treaty of*; *Removal*; Ross, John; *Trail of Tears*; Watie, Stand; *Worcester v. Georgia* (1832).

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BIBLIOGRAPHY

- Anderson, William L. *Cherokee Removal: Before and After*. Athens: University of Georgia Press, 1991.
- Dale, Edward Everett, and Gaston Litton, eds. *Cherokee Cavaliers: Forty Years of Cherokee History as Told in the Correspondence of the Ridge-Watie-Boudinot Family*. Norman: University of Oklahoma Press, 1995.
- Moulton, Gary E. *John Ross, Cherokee Chief*. Athens: University of Georgia Press, 1978.
- Perdue, Theda, and Michael D. Green. *The Cherokee Nation and the Trail of Tears*. New York: Viking Adult, 2007.
- Wilkins, Thurman. *Cherokee Tragedy: The Ridge Family and the Decimation of a People*. 2nd ed., rev. Norman: University of Oklahoma Press, 1986.

Right of Soil

The right of soil is a concept of land ownership that European and American legal theorists used to diminish the property rights of Native Americans. Generally, the term means the right to occupy land possessed by a tribal nation. In the late eighteenth century, George Washington's secretary of war, Henry Knox, used the term in his description of the relationship between the territorial rights of the United States and the Indian tribes. Under his understanding of property ownership, the United States held the overarching dominion over the territory of a tribal nation, while the tribe held the right to occupy the land.

The concept was institutionalized into American law in the United States Supreme Court decision of *Johnson v. M'Intosh* (1823). In that case, Chief Justice Marshall declared that the United States held ultimate legal authority over the land of a tribe while the Native Americans retained only a right of possession. Moreover, Marshall held that with its victory in the American Revolutionary War (1775–1783), the United States had succeeded to Great Britain's exclusive right to acquire the Indian right of soil. As a consequence, the United States could determine the fate of Native American territory, because the tribes could sell their right of soil only to the United States and not to individuals, states, or foreign nations.

See also *Aboriginal Indian Title; Discovery, Doctrine of; Johnson v. M'Intosh* (1823); *Knox, Henry; Marshall, John*.

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BIBLIOGRAPHY

- Cross, Raymond. "Sovereign Bargains, Indian Takings, and the Preservation of Indian Country in the Twenty-first Century." *Arizona Law Review* 40 (Summer 1998): 425–509.
- Johnson v. M'Intosh*, 21 U.S. 8 Wheat. (1823).
- Kades, Eric. "The Dark Side of Efficiency: *Johnson v. M'Intosh* and the Expropriation of American Indian Lands." *University of Pennsylvania Law Review* 148 (Apr. 2000): 1065–1190.
- Miller, Robert J. "The Doctrine of Discovery in American Indian Law." *Idaho Law Review*, 42 (2005): 1–122.

Rogue River War (1855–1856)

As white settlers populated the banks of the Rogue River in southwestern Oregon Territory in the late 1840s, tensions with the Rogue River Indians, including the Latgawa and Takilma tribes, increased. The gold rush of 1852 that brought in an influx of miners only exacerbated matters. Until then,

clashes between Native Americans and whites had been isolated and sporadic, but with each new clash, mutual distrust grew. By the early 1850s conflict had intensified to such a degree that western politicians made concerted efforts to move Native Americans to reservations and clear the way for white settlement. Joel Palmer, Oregon superintendent of Indian affairs, negotiated the treaty with the Rogue River Indians (1853 and 1854) through which he purchased Indian land for an average of four-and-half cents an acre. As conflicts over land escalated, Oregon territorial politicians Charles S. Drew and Benjamin F. Dowell urged all-out war against the Indians, encouraging the government to hire unemployed miners to exterminate Indians. The conflict came to a head in the fall of 1855 when James A. Lupton, Democratic territorial representative, took a decisive step in Oregon Indian policy, forcing the hand of government to support pro-war politicians.

The Rogue River War officially began at dawn on October 8, 1855, when Lupton led volunteers in a premeditated attack on an Indian encampment near the mouth of Little Butte Creek. Though the attackers claimed to target warriors, they also killed a number of women and children. The rampage continued as white volunteers indiscriminately and mercilessly struck down Rogue River men, women, and children. As a result, some Indians sought protection at nearby Fort Lane, but many chose to join Chief Tecumtum ("Elk Killer," also called "John" by Indian agents) in retaliation against whites. A guerilla war ensued between whites and the various Rogue River tribes throughout the autumn of 1855. Indians attacked mining communities, such as Galice, where white refugees held a number of captives, and white volunteers attacked and killed eight Indians at Lookingglass Prairie, about ten miles west of Roseburg village. The largest battle of the conflict took place October 31–November 1, and was known as the Battle of Hungry Hill. Tecumtum led his followers against troops led by Captain Andrew Jackson Smith, Captain T.S. "Smiley" Harris, and Colonel John E. Ross. Tecumtum's force held the high ground, and by the end of the second day they had routed the government troops. Skirmishes continued throughout the winter. Tecumtum made his last stand at the Battle of Big Bend (May 27–29, 1856) before finally surrendering. U.S. army troops escorted the prisoners onboard the steamship *Columbia*, which took the Indians to the Coast reservation 175 miles (282 kilometers) north of the Rogue River Valley where disease and starvation decimated their population. After more than a century of negotiations and

court battles, the descendants of the Rogue River Indians have regained the rights to some of their land and are federally recognized as members of the twenty-seven Confederated Tribes of Siletz.

See also *Gold and Gold Rushes*.

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BIBLIOGRAPHY

- Beckham, Stephen Dow. *Requiem for a People: The Rogue Indians and the Frontiersmen*. Norman: University of Oklahoma Press, 1971.
- Glassley, Ray H. *Pacific Northwest Indian Wars*. Portland, Ore.: The Metropolitan Press, 1953.
- Schwartz, E. A. *The Rogue River Indian War and Its Aftermath, 1850–1980*. Norman: University of Oklahoma Press, 1997.
- Walsh, Frank K. *Indian Battles Along the Rogue River, 1855–56*. Medford, Ore.: Klocker Printery, 1972.

Rolls

See *Tribal Citizenship*.

Roosevelt, Franklin D.

Franklin Delano Roosevelt (1882–1945), president from 1933 until his death in 1945, is best known for his sweeping New Deal reform policies and his leadership during the Second World War (1941–1945). Often overlooked in the alphabet of New Deal programs, however, is his complete overhaul of federal Indian policy. Through his so-called Indian New Deal, Roosevelt sought to overturn centuries of assimilationist policies in favor of Indian self-rule. Although certainly important to Native Americans, white reformers, and other interested parties, the Indian New Deal was a poor relation to the broader New Deal economic, political, and social reforms, and was one of the first casualties of World War II.

When he took office in 1933, Roosevelt signaled his desire to reorient federal Indian policy by appointing Harold Ickes as secretary of the interior and John Collier as commissioner of Indian affairs. Both men had parlayed their progressive activism into Indian reform through their work with the American Indian Defense Association (AIDA). The AIDA helped to defeat the Bursum Bill (1922), which threatened to deprive the Pueblo Indians of land and water rights. The organization also widened its focus to include reforming Indian education and land tenure policies, ending the repression of religion and culture, and establishing tribal political autonomy. By appointing men with ties to the

AIDA, Roosevelt signaled his support of the organization's agenda.

Ickes and Collier worked to implement the AIDA's program. In early 1933 Collier put several bills for Indian policy reform before Congress. His proposals remained in committee, however, because the emergency legislation of Roosevelt's Hundred Days took priority. In the meantime, Collier worked to integrate Indians into the growing New Deal programs. For example, in June 1933 Collier persuaded the newly formed Public Works Administration to create a separate Indian desk through which to funnel federal relief funds to reservation construction projects. The Civilian Conservation Corps also incorporated a special Indian section. By the end of the New Deal period, Collier had used existing New Deal programs to improve the infrastructure of reservations, distribute food, and provide jobs.

In February 1934 Collier put before Congress a massive piece of legislation aimed at complete overhaul of Indian affairs. Totaling forty-eight pages, the reform bill was divided into four sections: self-government, education, lands, and a court of Indian affairs. After contentious debate, Collier's proposal was pared down and submitted to Congress as the Indian Reorganization Act (IRA), also known as the Wheeler-Howard Act. The act proposed an end to the Dawes Act, which had put into place the policy of allotment, and restored surplus reservation lands to tribal ownership. The IRA called for each tribe to establish its own government and draft its own constitution, subject to the approval of the Department of the Interior. The act would not apply to tribes without their approval. Once tribes had voted to accept the IRA, they could begin to write their constitutions.

Roosevelt endorsed the IRA in a letter to Congress on April 28, 1934. He wrote that the bill represented a new way for the government to deal with the Indian tribes. No longer would the government rule over Indians in an autocratic fashion; rather, Native people would play a primary role in implementing and pursuing self-government and resolving their own problems. Roosevelt urged Congress to pass the act, which it did on June 18, 1934. Subsequent to its passage, 174 tribes voted to accept the IRA, while 78 rejected it. Though influential, the IRA generated considerable discomfort and, in some instances, hostility in some Native communities. It remains today a controversial aspect of FDR's legacy.

Indian reform ground to a halt with the advent of World War II. Just as Indian reform had played second cousin to

other concerns in the first Hundred Days, further additions to the Indian New Deal were pushed aside in favor of what were seen as more pressing problems. When the war began, Congress slashed the Office of Indian Affairs' budget and staff. In 1941 the War Department's need for expanded office space in Washington D.C. forced the bureau to move its headquarters to Chicago. This move made it more difficult for Collier to keep his agenda before Congress. In 1945 Collier resigned, effectively ending Indian reform in that era.

Roosevelt and his Indian New Deal left a mixed legacy. Roosevelt's Indian policies were the first attempt in over a century to end assimilation, give Indians some semblance of self-government, and support Indian culture and religion. At the same time, critics argued that the Indian New Deal dealt a blow to what some viewed as positive assimilationist programs; additionally, in the eyes of some Indians, the IRA was just another example of government-backed paternalism.

See also *American Indian Defense Association*; *Bursum Bill (1922)*; *Collier, John*; *Ickes, Harold L.*; *Indian New Deal*; *Indian Reorganization Act (1934)*; *World War II, American Indians and*.

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BIBLIOGRAPHY

- Kelly, Lawrence C. *The Assault on Assimilation: John Collier and the Origins of Indian Policy Reform*. Albuquerque: University of New Mexico Press, 1983.
- Kersey, Harry A., Jr. *The Florida Seminoles and the New Deal, 1933–1942*. Boca Raton: Florida Atlantic University Press, 1989.
- Kunitz, Stephen J. "The Social Philosophy of John Collier." *Ethnohistory* 18:3 (Summer 1971): 213–229.
- Philp, Kenneth R. *John Collier's Crusade for Indian Reform, 1920–1954*. Tucson: University of Arizona Press, 1977.
- Schrader, Robert Fay. *The Indian Arts and Crafts Board: An Aspect of New Deal Indian Policy*. Albuquerque: University of New Mexico Press, 1983.
- Taylor, Graham D. *The New Deal and American Indian Tribalism: The Administration of the Indian Reorganization Act, 1934–45*. Lincoln: University of Nebraska Press, 1980.

Roosevelt, Theodore

Theodore Roosevelt (1858–1919) was president of the United States from 1901 to 1909. His administration is noted for its support of allotment (the process of dividing tribal lands into small tracts for distribution to individuals), the dispossession and removal of Indians from lands acquired by the federal government, and an emphasis on the destruction of Native culture.

Roosevelt, born to a wealthy New York City family, graduated from Harvard in 1880 and began service in the New York Assembly the following year. After the deaths of his wife and mother on the same day in 1884, Roosevelt decided to head to the West. He does not appear to have had much direct interaction with Native Americans while there. He did, however, offer the following pronouncement in 1886, the year he returned to the East: "I don't go so far as to think that the only good Indians are the dead Indians, but I believe that nine out of ten are, and I shouldn't like to inquire too closely into the case of the tenth. The most vicious cowboy has more moral principle than the average Indian" (Hauptman, "Governor Theodore Roosevelt"). Roosevelt's racist views are evident throughout his writings, including in his well known *The Winning of the West*, in which he argued that across the world the largest struggle was a racial one, with the white races winning out over the "savage" ones (defined by him as non-white races). He argued that the conquest of non-white peoples was necessary in order for the world to advance. Roosevelt was very much a product of his time and place when it came to issues of race and ethnicity.

Roosevelt's views on Indians appear to have moderated somewhat over time. In 1898 he invited Native Americans to participate in his famed Rough Riders outfit, which fought in the Spanish-American War (1898). After the war, he became governor of New York (1898–1900), where he indicated a preference for assimilating Native Americans into the majority society. He ordered that only English be permitted on New York's reservations in the belief that to do so would speed up the assimilation process. He also created a commission to study Native American education and another to investigate the land rights of the tribes residing within the state.

Roosevelt continued his rise in politics, achieving the office of vice president in 1900 and claiming the presidency in 1901 after the assassination of William McKinley. In part due to his experiences there in the 1880s, Roosevelt exhibited a keen interest in the future of the western part of the country. He promoted conservation policies for the government and was instrumental in creating the National Forest Service and the first National Bird Refuge on Pelican Island, Florida. He also established the American Bison Society to prevent the extinction of the buffalo; in 1909 he announced the opening of the National Bison Range in Montana. By the end of his two terms in office, Roosevelt had placed forty-two million acres (17 million hectares) into the national forest system, created fifty-three wildlife refuges, and

established eighteen national parks and monuments, including Grand Canyon, Crater Lake, Devil's Tower, and Mesa Verde—all sites, it should be noted, that held significant meaning for the Native people who lived near them. In connection with these conservation and preservation efforts, Roosevelt transferred millions of acres from Native American reservations to the national forests and parks, thereby uprooting many Indians from their homes.

Roosevelt was a supporter of the government's allotment policy; in 1901 he argued before Congress that allotment was "a mighty pulverizing engine to break up the tribal mass" (Wilkins, *American Indian Politics*) that would teach Indians the value of individual property ownership. Roosevelt also supported industrial training for Native Americans, believing it would prepare them for assimilation.

During Roosevelt's presidency, the tribal governments in the Indian Territory were abolished. The Dawes Rolls, which collected membership information on the Creeks, Cherokees, Choctaws, Chickasaws, and Seminoles in Oklahoma in preparation for the allotment of their lands, were completed during Roosevelt's administration. In 1907 the United States dissolved the Indian Territory and integrated its lands into the new state of Oklahoma. The tribes in the territory had sought to establish a new Indian state, the state of Sequoyah, in the eastern part of Oklahoma. Roosevelt and Congress, however, refused to sanction the idea.

See also *Allotment in Severalty; Assimilation and Acculturation; Buffalo; General Allotment Act (Dawes Act) of 1887; Indian Territory; National Parks and Monuments; Oklahoma.*

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BIBLIOGRAPHY

- Dorsey, Leroy G. *We are All Americans, Pure and Simple: Theodore Roosevelt and the Myth of Americanism*. Tuscaloosa: University of Alabama Press, 2007.
- Hagan, William T. *Theodore Roosevelt and Six Friends of the Indian*. Norman: University of Oklahoma Press, 1997.
- Hauptman, Laurence M. "Governor Theodore Roosevelt and the Indians of New York State." *Proceedings of the American Philosophical Society* 119 (February 21, 1975): 1–7.
- Hoxie, Frederick E. *A Final Promise: The Campaign to Assimilate the Indians, 1880–1920*. Lincoln: University of Nebraska Press, 1984.
- McCullough, David. *Mornings on Horseback: The Story of an Extraordinary Family, a Vanished Way of Life and the Unique Child Who Became Theodore Roosevelt*. New York: Simon and Schuster, 2001.
- Morris, Edmund. *Theodore Rex*. New York: Random House, 2001.
- Wilkins, David E. *American Indian Politics and the American Political System*. 2nd ed. Lanham, Md.: Rowman and Littlefield, 2006.

Ross, John

John Ross (1790–1866) was the longest serving principal chief of the Cherokee Nation and led his people through some of the most trying times in their history, including a forced removal, a civil war between factions within the nation, and the American Civil War (1861–1865).

Ross descended from a line of Scots traders and British loyalists who intermarried and allied with the Cherokees in the late eighteenth century. After being immersed in both Cherokee and American culture as a child, Ross completed his formal education at an academy in Tennessee. As a young man, he fought with General Andrew Jackson's forces against the Redstick Creeks in the Creek Civil War and against the British in the War of 1812 (1812–1814).

After serving as a legislator, delegate to Washington, and member of the Cherokee National Council, Ross served as president of the council from 1819 to 1826. In 1827, Ross was elevated to the position of principal chief pro tem after the death of Pathkiller. In that year, he also helped write the Cherokee National Constitution, which reasserted that the Cherokees comprised a sovereign nation. He was elected principal chief in the Cherokee Nation's first national election under the new constitution in 1828. At this time, the state of Georgia was attempting to extend its jurisdiction over the Cherokee land within its nominal borders. The state annexed Cherokee territory into existing Georgia counties and abolished the Cherokees' laws and government.

Andrew Jackson was inaugurated president of the United States in 1829, and he immediately began working to force the tribes in the Southeast to remove from their homelands west across the Mississippi River. Jackson's allies in Congress passed the Indian Removal Act in 1830, which gave the president the authority to negotiate removal treaties with the eastern tribes. Ross believed that federal officials and courts would recognize the guarantees of Cherokee territorial rights and sovereignty that the United States had made in several treaties, including the ones at Hopewell (1785) and Holston (1791). The tribe adopted a political strategy of lobbying and litigating for its autonomy from Georgia's encroachments on its sovereignty.

Ross orchestrated the nation's first challenge to Georgia's trespasses in *Cherokee Nation v. Georgia* (1831). The U. S. Supreme Court, however, determined not to accept jurisdiction in the case. In a subsequent case, *Worcester v. Georgia* (1832), the Court recognized the Cherokees as a distinct political community with the right of self-government over

which the laws of Georgia had no jurisdiction. Ross believed he had forestalled removal; however, Jackson and Congress did not force Georgia to abide by the Court's decision.

For the next three years, U. S. representatives pressured Ross and the Cherokee government to sign a removal treaty. While Ross was in Washington on national business, a small faction of Cherokee dissidents, led by Major Ridge, John Ridge, and Elias Boudinot, signed a removal treaty at the Cherokee capital of New Echota (1835). Outraged by the agreement, Ross led protests against the treaty; the government collected sixteen thousand signatures on a petition opposing the treaty.

The Cherokees' opposition was in vain, however. After nearly a decade of political jousting with Georgia and the United States, the U.S. Army rounded up the Cherokees and incarcerated them in makeshift stockades. Over the winter of 1838–1839 the Cherokees relocated to the Indian Territory (in what is now Oklahoma) along the notorious “Trail of Tears.” Somewhere between 25 and 50 percent of the tribe died as a consequence of the removal, including Ross's wife, Quatie.

After arriving at their new homeland in 1839, open warfare broke out between those who had supported Ross's decision to oppose removal (the “Ross Party”) and those who had signed or agreed with the signing of the Treaty of New Echota (the “Ridge Party”). Although assassins connected to Ross killed Major Ridge, John Ridge, and Elias Boudinot, the principal chief denied knowledge of the attacks. After several years of violent killings between the two factions, the United States government intervened and helped the Cherokees negotiate a tentative civil peace. From that point forward, Ross and other tribal leaders began reconstituting their nation. Between the settlement and the outbreak of the American Civil War, the Cherokees rebuilt their national institutions, founded new schools and churches, and revitalized their economy.

Although John Ross and other Cherokees owned slaves, he wanted the nation to remain neutral during the war. The Confederate States of America, however, persuaded Ross and the national council to sign a treaty of alliance. The war resulted in an invasion of the Cherokee Nation by Union troops. In 1862 Ross repudiated the alliance with the Confederacy and traveled to Washington, D.C., to try to protect the Cherokees' interests with the United States. He remained in Washington for the rest of the war and died there in August 1866.

See also Cherokee Nation v. Georgia; *Civil War (1861–1865)*; *Compact of 1802*; *Indian Removal Act (1830)*; *Jackson, Andrew*; *Removal*; *Ridge Family*; *Sovereignty*; *Trail of Tears*; *War of 1812 (1812–1814)*; *Worcester v. Georgia*.

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BIBLIOGRAPHY

- Garrison, Tim Alan. *The Legal Ideology of Removal: The Southern Judiciary and the Sovereignty of Native American Nations*. Athens: University of Georgia Press, 2002.
- Hoig, Stanley W. *The Cherokees and Their Chiefs: In the Wake of Empire*. Fayetteville: University of Arkansas Press, 1998.
- McLoughlin, William G. *After the Trail of Tears: The Cherokees' Struggle for Sovereignty, 1840–1880*. Chapel Hill: University of North Carolina Press, 1993.
- Moulton, Gary E. *John Ross: Cherokee Chief*. Athens: University of Georgia Press, 1978.

Russia, Indian Policy of

Most Russian interaction with the indigenous Alaskan population involved the Aleuts (Alaska Natives) and the Tlingits (a group of Northwest Coast American Indians). The Russians had very little, if any, contact with the Inuits, and very little with another Northwest Coast American Indian group, the Athabascans, having established only a tentative fur trade up the Yukon River after 1835.

Expanding eastward from Siberia in the mid-eighteenth century, Russian fur traders funded by merchant investors from Siberia encountered Aleut Natives in the Aleutian Islands. The diseases brought by the Russians and the brutality with which they treated the Aleuts led to their decimation, a decline in the Aleut population from about 20,000 in 1700 to about 2,000 in 1800. Unlike the Tlingits, who were aggressive and well organized, the Aleuts, living on treeless islands, were unable to defend themselves against the Russians. The Russians subjugated the survivors, commanding their labor for fur trapping and to construct housing and storage facilities, and appropriating the women as concubines. Finding immense herds of breeding fur seals on the uninhabited Pribilof Islands, the Russians permanently installed Aleut hunters there. The principal Russian investor, Grigori Shelikhov, established a post on Kodiak Island.

In 1799 Paul I, the tsar of Russia, established a government-sponsored, twenty-year monopoly, the Russian-American Company, to market Russian furs harvested in North America. At that time, the Russians expanded their operations southward to the Alexander Archipelago (the Alaska Panhandle) and created a skeletal government, Russian America, with the capital at Sitka, named Novo Arkangelsk (New Archangel).

On the archipelago they encountered the powerful Tlingit Indians, a Pacific Northwest Coast people. Unlike the Aleuts, the Tlingits were organized sufficiently to successfully resist subjugation by the Russians. It is significant, also, that the largest number of Russians ever in Russian America was approximately 800. The Russians relied for administrative personnel on people they named Creoles, the offspring of Russian fathers and Native mothers; there were about twice as many Creoles as Russians. For labor, the Russians relied on Aleut hunters, whom they forced into service on the archipelago, and Russian servicemen signed to long-term contracts.

In 1802 the Tlingits overran Novo Arkangelsk, killing as many as sixty Russians; several score additional Russians escaped to Kodiak on an English trading ship. Two years later the Russians returned and, with the help of a Russian naval bombardment, re-established themselves at Novo Arkangelsk. In time they established a working relationship with the Tlingits, which drew the Indians into the world market. The Tlingits traded furs and potatoes (which were introduced to them by the Russians) to the Russians. Furs traded by the Tlingits to American and British maritime fur traders (out of New England), and to the Russians, made their way to Canton, China, where they fetched extraordinary prices, some of it paid in other goods; the maritime traders subsequently traded these goods in Indonesia and Europe.

With the Tlingits' strength of numbers and determined resistance, they often could restrict the Russians to their fortified post, making it necessary for the Russians to go in numbers and well-armed when traveling on the archipelago. When the Russians had exhausted the easily accessible furs, they relied increasingly on trade with the Tlingits, who brought furs to the post at Sitka in return for European goods the Russians supplied.

The Russian-American Company could not keep its posts in North America adequately supplied, and in time its employees became increasingly dependent on the Tlingits, who had learned to grow potatoes and traded large amounts of them, along with deer meat, to the isolated Russians. The Russians could not keep private U.S. and British maritime fur traders from trading arms and whiskey to the Tlingits in exchange for furs. This further empowered the Indians, who posed a constant threat to the Russian enterprise in North America. Altercations between Russians and Tlingits were many and not infrequently led to death or injury. The Russians, who in 1808 tried to establish a post on what is

now the Washington State coast, also faced attacks from other tribes along the Pacific Northwest coast.

In 1821 Emperor Alexander and the imperial senate issued a charter to the Russian-American Company. Emperor Nicholas issued another charter in 1844. Both required the Company to deal fairly and equitably with American Natives. Most Russian governors of the colony served five-year tenures, and while several implemented enlightened policies toward the Tlingits, relations continued to be dominated by Tlingit power and Russian dependence. The subsequent charters greatly expanded the Company's authority, and the chief manager was now also clearly recognized as a civil governor. Governor Baron Ferdinand von Wrangel (1830–1835) eliminated an annual tribute that had been collected from the Natives, arranged that their labor be paid at a fixed rate (that is, he hired the American Natives to work for the Company rather than simply commanding their labor), and treated the clan chiefs with dignity, as minor heads of state.

In 1812 the Russians successfully established a post, Fort Ross, on the California coast eighty miles north of San Francisco. There they entered into a more peaceful thirty-year relationship with the Pomo Indians. Using short-term contracts with specific provisions for labor in exchange for goods, the Russians enjoyed generally positive terms with the Pomos. The Spanish attempted to discourage the Indians from cooperation with the Russians, but were too far away, and too poorly supplied and administered, to exert much influence. Intended to provide food for Novo Arkangelsk and other posts in Russian America, Fort Ross was never able to fulfill those expectations, and the Russians sold it to the California entrepreneur Johannes Sutter in 1841.

Vulnerability to British and U.S. expansion, together with declining profits, led the Russian emperor Alexander II to sell Russia's North American holdings to the United States in 1867 for \$7.2 million. The Tlingits and other Alaska Natives protested the sale, arguing that they themselves had never formally sold their land to the Russians. While this did not prevent the Russians and Americans from moving ahead with the sale, in 1959 the United States Supreme Court found that the Tlingits had never been compensated for loss of their land title and approved a settlement and cash award for extinguishment of their rights.

See also *Alaska Natives; Fur Trade.*

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BIBLIOGRAPHY

Black, Lydia T. *Russians in Alaska, 1732–1867*. Fairbanks: University of Alaska Press, 2004.

Fisher, Raymond H. *Bering's Voyages: Whither and Why*. Seattle: University of Washington Press, 1977.

Frost, O. W., ed. *Bering and Chirikov: The American Voyages and Their Impact*. Anchorage: Alaska Historical Society, 1992.

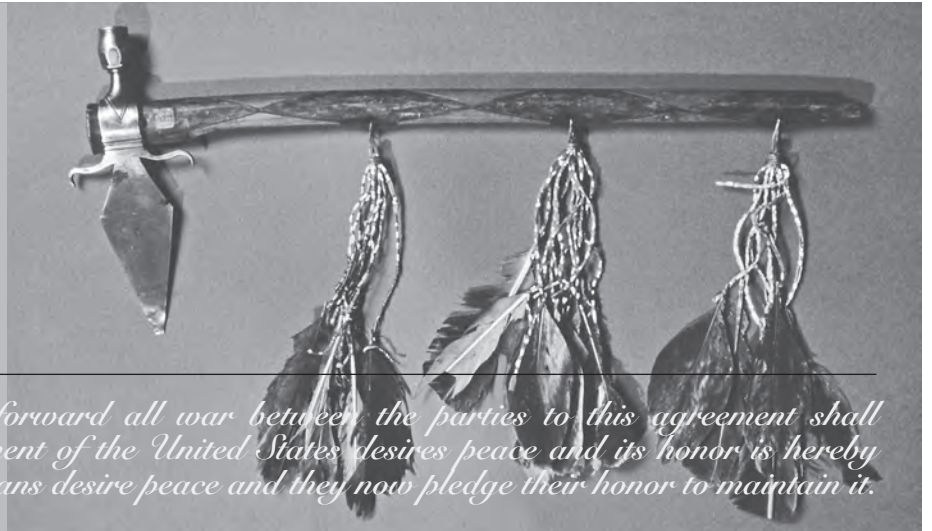
Gibson, James R. *Otter Skins, Boston Ships, and China Goods: The Maritime Fur Trade of the Northwest Coast, 1785–1841*. Seattle: University of Washington Press, 1992.

Langdon, Steve J. *The Native People of Alaska*. Anchorage: Greatland Graphics, 1978.

Smith, Barbara S. *Orthodoxy and Native Americans: The Alaska Mission*. Historical Society Occasional Papers No. 1. Syosset: St. Vladimir's Seminary Press, 1980.

Starr, Frederick S., ed. *Russia's American Colony*. Durham: Duke University Press, 1987.

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Article 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they now pledge their honor to maintain it.

Sacagawea

Sacagawea (c. 1788–1812 or 1884) was the daughter of a Lemhi Shoshone chief who became an interpreter for the Lewis and Clark Expedition (1804–1806). She was kidnapped by the Hidatsa Indians when she was about ten years old and taken back to their village on the upper Missouri River. In keeping with Hidatsa tradition, Sacagawea was not considered to be an outsider and was adopted into the tribe, probably to replace another child who had died. In 1804, when she was around sixteen years old, she was purchased from the Hidatsas and became the wife of Toussaint Charbonneau, a French Canadian trapper. That year Charbonneau became an interpreter with Meriwether Lewis and William Clark's Corps of Discovery, and Sacagawea also became a member.

As the expedition moved westward, Lewis and Clark unknowingly brought Sacagawea closer to her homeland. Sacagawea proved to be a valuable asset for the expedition because she spoke both the Shoshone and Hidatsa languages. She translated Shoshone into Hidatsa for Charbonneau, who would then translate again into English for Lewis and Clark. When confronted with languages unknown to her, Sacagawea communicated with a sign language that had become common among the various Indian tribes trading along the Missouri River and the northern Great Plains.

Sacagawea proved to be an extremely valuable member of the expedition in other ways as well. As she approached the traditional territory of her people, she showed Lewis and Clark important passages through the uncharted West and provided the expedition with valuable information about

edible plants and roots. She also showed the men how to make leather clothes and moccasins.

In 1805, while on the journey west, Sacagawea gave birth to a baby boy. She placed the boy, Jean-Baptiste Charbonneau (who the Corps referred to as Little Pomp), in a cradle board on her back and continued the expedition without pause. It is estimated that Sacagawea traveled an estimated 4,356 miles with Lewis and Clark.

Though some question the date, it is believed that Sacagawea died on December 20, 1812, at Fort Manuel in present-day South Dakota. Sacajawea's husband, Charbonneau, had two wives, and Shoshone oral history relates that Sacajawea died in 1884 and that the 1812 death was Charbonneau's earlier wife.

See also *Lewis and Clark Expedition.*

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BIBLIOGRAPHY

- Bryant, Martha F. *Sacajawea: A Native American Heroine*. New York: Council for Indian Education, 1989.
- Clark, Ella E., and Margot Edmonds. *Sacajawea of the Lewis and Clark Expedition*. Berkeley: University of California Press, 1979.
- Hunsaker, Joyce Badgley. *Sacagawea Speaks: Beyond the Shining Mountains With Lewis & Clark*. Helena, Mont.: Falcon Publishing Company, 2001.
- Ronda, James P. *Lewis and Clark among the Indians*. Lincoln: University of Nebraska Press, 1988.

Sacred Sites

Many practitioners of American Indian religions revere particular geographic sites as sacred and require that certain rituals be performed at those sites. While observers of Judeo-

Christian traditions often worship at particular sites, such as churches or synagogues, the fundamental tenets of these religions are based in certain belief systems, and the critical sacraments can be performed at any location. For American Indians, however, performing prescribed rituals at prescribed locations is critical. As a result of historical events, however, most tribes have been forced, wholly or partially, from their traditional lands. Consequently, they often no longer have a landowner's right of access to sacred sites or the landowner's ability to deny access to others. Thus, Indians wishing to practice their traditional religion must rely on other mechanisms to protect both the sites and their ability to access those sites.

American Indian Religious Freedom Act

In the late 1800s, the federal government actively sought to suppress Indian religions. Practice of traditional religion was a criminal offense under the Code of Indian Offenses, and Indian students at boarding schools were pressured to accept Christianity and harshly punished if they sought to practice their own religion. The twentieth century saw the gradual abandonment of these punishments, and in 1978 Congress passed the American Indian Religious Freedom Act (AIRFA), which officially declared that federal policy is "to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions . . . including but not limited to access to sites." Despite this change in federal policy, the AIRFA explicitly refused to create any judicially enforceable rights, and as a result the new policy was described by the U. S. Supreme Court as "toothless."

The Taos Pueblo Indians' initiative to regain control of Blue Lake in New Mexico's northern mountains marks one successful, albeit lengthy, effort to return a sacred site to tribal control. Appropriated by the U.S. Forest Service in 1906 and incorporated into the Carson National Forest shortly afterward, Blue Lake is the most sacred of sites to the Indians of the Taos pueblo. Once it became federal land, Blue Lake was opened to members of the general public. Concerted efforts by the Taos Pueblos resulted in a 1933 Senate recommendation that title to Blue Lake be restored to the Indians, while a 1965 Indian Claims Commission found that the site had been wrongfully taken by the federal government. It was not until 1970 that Congress passed legislation, signed by President Richard M. Nixon, creating the Blue Lake Wilderness Area and placing it under federal trust status for the Taos Pueblo Indians, which gave them exclusive access to the site.

Tribal efforts in the 1970s and 1980s to use the court system to protect sacred sites generally met with failure. In the 1970s the Navajos lost a lawsuit seeking to enjoin the filling of Lake Powell, an action that would make it easier for members of the general public to access Rainbow Bridge, a natural rock span in Utah and a site sacred to the Navajos (*Friends of the Earth v. Armstrong*, 485 F.2d 1 [10th Cir. 1973]). In 1980 the Cherokees lost their attempt to enjoin the building of a reservoir that would flood and forever ruin one of their sacred sites (*Sequoyah v. Tennessee Valley Authority*, 620 F.2d 1159 [6th Cir. 1980]). The Hopis also lost a suit in the early 1980s seeking to enjoin the expansion of a resort in the Arizona Snowbowl, a ski area in the San Francisco Peaks in northern Arizona's Coconino National Forest (*Wilson v. Block*, 708 F.2d 735 [D.C. Cir. 1983]). The expansion intruded onto Hopi sacred sites.

The Lyng Decision

Around the time of the AIRFA's enactment, a combination of circumstances was coalescing in California that would result in the U.S. Supreme Court's *Lyng v. Northwest Indian Cemetery Protective Association* decision. Issued in 1988, *Lyng* would become the Court's major statement regarding the relationship between the First Amendment's guarantee of free exercise of religion and access to sacred sites. *Lyng* centered on the proposed construction of a road to join two towns in the Chimney Rock area of the Six River National Forest and facilitate timber harvesting operations. In compliance with the National Environmental Protection Act (NEPA), the U.S. Forest Service prepared an environmental impact statement. The report concluded that the entire area was sacred to the Yurok, Karok, and Tolowa tribes, and that privacy, silence, and an undisturbed natural setting were indispensable to the tribes' religious practice. The Forest Service ultimately rejected the report's recommendation that the Chimney Rock area be preserved in its natural state and decided to proceed with the road construction process.

The tribes sued, and the Supreme Court ultimately held that construction of the road did not violate the First Amendment's declaration that the federal government may not intrude upon the free exercise of religion. Under the test as it then existed, if a federal law imposed a substantial burden on the practice of religion, the government was required to demonstrate the existence of a compelling reason for the law. Since the government's own report concluded that building the road would make it impossible for the tribes to practice their religion, the issue of "substantial burden"

appeared easily satisfied. In its decision, however, the Court redefined what constituted a burden, concluding that the government substantially burdens a religious practice only if it imposes an actual penalty on practitioners of the religion, such as fines, imprisonment, or loss of government benefits. The Court's decision was clearly motivated by an unwillingness to give to a group the right to veto governmental decisions about how to best manage federal lands.

After *Lyng* it was evident that any efforts by Indians to protect sacred sites and access to sacred sites would have to be undertaken as part of the federal land management process. In addition to the AIRFA and NEPA, several other federal laws impact management of sacred sites. One of those laws, the National Historic Preservation Act (NHPA), contains a mechanism for classifying certain physical locations as traditional cultural property and including them on the National Register of Historic Places. The NHPA establishes a review process for ensuring that any decision impacting a historic site be fully informed and creates a system of state and tribal historic preservation officers with significant roles in implementing the national program. National Register Bulletin No. 38, originally issued by the National Park Service (NPS) in the early 1990s, provides guidelines for evaluating and documenting traditional cultural property.

Despite its efforts to include tribes within the protections of the statute, the NHPA has been criticized because it defines items on the National Register as the cultural property of the United States, and federal (rather than tribal) entities generally have final say in making management and other decisions impacting the property. In addition, the initial step of listing the property on the National Register requires disclosing details about its location, history, and religious significance, though many tribal religions forbid such disclosures to outsiders. Executive Order 13007, a 1996 presidential directive issued by Bill Clinton, also requires federal agencies to accommodate American Indian religious practices, including access to sacred sites, when managing federal lands. As with the AIRFA, however, EO 13007 does not create any explicit judicially enforceable rights.

Recent Developments

Tribes have used those laws that are in place to leverage negotiations with federal agencies and encourage regulations and management plans that protect American Indians' sacred sites and facilitate access to sacred sites. One successful effort toward protection of a sacred site involved the Bighorn Medicine Wheel, located in Wyoming's Bighorn Mountains.

The origins and purposes of the Medicine Wheel have been lost to history, but the complex system of cairns, spokes, and archaeological sites is sacred to many tribes and is the site of vision quests today. Although they began contentiously and with much hostility between U.S. Forest Service land managers and tribal leaders, successful negotiations resulted in the 1996 Medicine Wheel Historic Preservation Plan, now viewed as a model of cooperation between tribes and federal agencies managing public lands containing sacred sites. As a result of the preservation plan, federal officers and religious leaders consult to ensure the site is managed in a respectful manner and that Indians have the necessary access to practice their religion.

Twenty years after the Navajos failed in their litigation over Rainbow Bridge, the NPS, which has authority over the site, adopted a management plan for the area that called for a voluntary moratorium on walking under Rainbow Bridge out of respect for tribal religious beliefs. When legal action proved unsuccessful, the Navajos were able to achieve at least part of their goal through administrative action.

Constitutional Conflict

Decisions to approach the protection of and access to sacred sites issues of federal land management do create potential problems and can lead to litigation. One constant balancing act underlying all such decisions involves the tension between the First Amendment's command that the government protect the free exercise of religion and the First Amendment's prohibition against the establishment of religion. The line between accommodating Indian religion and establishment of a religion is often not clear.

One example of this balancing act occurred when the NPS began re-examining its management plan for Devil's Tower, the country's first national monument. A dramatic monolith rising from the Wyoming landscape, Devil's Tower had become an international destination for rock climbers. The number of climbers rose from approximately three hundred in 1973 to more than six thousand a year in the mid-1990s. The site is also sacred to at least a half a dozen tribes in the area, most of whom refer to the formation as Bears' Lodge. In 1992 the NPS decided that the increase in climbing at the site was adversely impacting the natural and cultural resources of the area. The NPS site manager assembled an advisory group of traditional tribal religious leaders and representatives from the climbing community to make suggestions regarding a new management plan. The result was a Final Climbing Management Plan (FCMP) that, among

other things, called for a voluntary climbing moratorium during the month of June. Because of the summer solstice, June is the most sacred time of the year for area tribes. The FCMP also limited climbing on certain routes and called for signs along the trail and in the visitors center educating the public about the history of the site and its importance to area tribes. A challenge mounted by a consortium of interests and founded on the First Amendment's establishment clause was rejected by the district court, which ruled that the NPS's regulations were targeted at preserving Indian culture and accommodating Indian religion and did not go so far as to establish a religion. A subsequent appeal failed when the appellate court ruled that the consortium lacked standing to bring the case. After the implementation of the FCMP, climbing during the month of June decreased by 85 percent.

In addition to potential establishment clause issues, another difficulty with relying on the federal land management process as the mechanism for protecting sacred sites is that it does not actually give practitioners of Indian religions control over their sacred sites and often requires them to seek a permit in order to gain access. Many Indians view the permit process as an intrusion on their religious freedom and resent having to petition the federal government for permission to practice their religion. Concerns also arise because, in addition to accommodating Indian religious practices, federal agencies making land management decisions must also consider impacts on plants and animals, as well as uses of the site by other members of the general public. The result thus far has been to place protection of Indian sacred sites and religious practices on a par with protection of fauna, flora, and recreational snowmobiling—a fact that further increases friction between Indians and the federal government.

Tribal Protection of Sacred Sites

Whether tribes are successful in protecting their sacred sites and ensuring access may also depend on the individual managers at various sites, the political power and resources of the tribe, and the political power and resources of those opposing the tribe's requests. While tribes have in general been unsuccessful when using the courts to challenge management decisions by federal agencies, non-Indians have been equally unsuccessful when they turn to the courts to contest accommodations for Indian religions.

The dispute over the construction of an observatory and telescope on Mount Graham in Arizona, a site sacred to the San Carlos Apaches, illustrates the problems that can ensue

for tribes facing powerful opponents, as well as for a tribe whose religion requires secrecy about religious sites and religious practices. After protracted litigation and legislative lobbying, the proponents of the telescope prevailed and the observatory was built, causing significant damage to an important sacred site. Efforts to protect the site through litigation, either on the grounds of protecting religious freedom or protecting an endangered species of squirrel, failed.

A group of tribes, including the Hopis, Navajos, Havasupais, and Apaches, sued the U.S. Forest Service in an attempt to block that agency's decision to approve the Snowbowl ski resort's use of recycled sewage effluent to make artificial snow. The tribes argued that the decision violated the Religious Freedom Restoration Act and that one part of the government's environmental impact statement did not comply with NEPA. A three-judge panel of the Ninth Circuit agreed with the tribes, but that decision was reversed on re-hearing by a larger panel of judges.

As noted earlier, non-Indians lost their suit challenging the FCMP for Devil's Tower. Although that litigation did not result in a decision on the substantive issues, the practical outcome was to leave the NPS's plan in place. In August 2007 a group of climbers also lost a challenge to the U.S. Forest Service's plan for Cave Rock, a large rock formation on the eastern shore of Lake Tahoe. Cave Rock is sacred to the Washoe Tribe and since the late 1980s had become a popular site for rock climbing. In 1996 the Forest Service had determined that Cave Rock was eligible for inclusion on the National Register of Historic Places as a traditional cultural property. When the Forest Service began the process of developing a new management plan for the site, one of the goals was to manage the site in a way that preserved the historic and cultural characteristics that made it eligible for inclusion on the National Register. After studying the issue and receiving public comment, the Forest Service banned all rock climbing at the site. Climbers challenged that decision on several grounds, including that it constituted an establishment of religion. The Ninth Circuit rejected that challenge, ruling that the Forest Service's actions were motivated by the permissible purposes of protecting history and culture, and were not an impermissible establishment of religion.

See also *American Indian Religious Freedom Act (1978)*; *Lyng v. Northwest Indian Cemetery Protective Association (1988)*; *National Parks and Monuments; Religious Freedom*; *Taos Pueblo of Blue Lake*.

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BIBLIOGRAPHY

- American Indian Religious Freedom Act*, Public Law 95-341, 95th Cong., 2d sess. (August 11, 1978).
- Burton, Lloyd, and David Ruppert. "Bear's Lodge or Devils Tower: Inter-Cultural Relations, Legal Pluralism, and the Management of Sacred Sites on Public Lands." *Cornell Journal of Law and Public Policy* 8 (1999): 201-247.
- Carpenter, Kristen A. "In the Absence of Title: Responding to Federal Ownership in Sacred Sites Cases." *New England Law Review* 37 (2003): 619-633.
- Dussias, Allison. "Ghost Dance and Holy Ghost: The Echoes of 19th Century Christianization Policy in 20th Century Native American Free Exercise Cases." *Stanford Law Review* 49 (1997): 773-854.
- Executive Order 13007. "Indian Sacred Sites," *Federal Register* 61:104 (May 29, 1996): 26771-26772.
- Gulliford, Andrew. *Sacred Objects and Sacred Places: Preserving Tribal Traditions*. Boulder: University Press of Colorado, 2000.
- Nabakov, Peter. *Where the Lightning Strikes: The Lives of American Indian Sacred Places*. New York: Penguin, 2007.
- National Environmental Policy Act of 1969*, Public Law 91-190, 91st Cong., 1st sess. (October 30, 1990).
- National Historic Preservation Act*, Public Law 89-665, 89th Cong., 2d sess. (October 15, 1966).
- Page, Jake, ed. *Sacred Lands of Indian America*. New York: Harry N. Abrams, Inc., 2001.
- U.S. Department of the Interior, National Register Bulletin No. 38, "Guidelines for Evaluating and Documenting Traditional Cultural Properties." Washington, D.C.: Government Printing Office, 1990.
- Williams, Robert A., Jr. "Large Binocular Telescopes, Red Squirrel Pinatas, and Apache Sacred Mountains: Decolonizing Environmental Law in a Multicultural World." *West Virginia Law Review* 96 (1994): 1133-1164.
- Worthen, Kevin. "Protecting the Sacred Sites of Indigenous People in U.S. Courts: Reconciling Native American Religion and the Right to Exclude." *St. Thomas Law Review* 13 (2000): 239-258.

Salmon

Pacific salmon have historically provided at least 30 percent of the caloric intake of fisher people in the Pacific Northwest. Salmon influenced the movement and material culture of the region's people and were a significant item of trade in an economic system that extended into present-day California, British Columbia, and Montana. Many of the region's federal treaties include provisions for tribal members to fish on- and off-reservation, a right that encompasses the taking of whales, shellfish, and other species and that Pacific Northwest Indians have vigorously protected in federal courts and in on-the-ground protests. The protection and enactment of treaty fishing rights and the protection of the fisheries have become essential political and cultural issues within the region's Indian communities.

Pacific salmon are anadromous fish, meaning that they leave their natal freshwater streams for the ocean where they feed for several years before returning inland to spawn. As a

result, salmon bring the sea's nutrients into the landed interior. In addition, they return to their natal streams in "runs," making the harvest of salmon predictable. Large seasonal harvests necessitated processing and storing technologies to extend the availability of this important food source. Salmon provided a high-quality source of protein and fat, and their use, though augmented by other species, was ubiquitous among Native people wherever salmon thrived.

There are five species of Pacific salmon. Native fishers consider steelhead trout a sixth species of salmon, but state regulatory bodies have classified them as game fish. Native people in North America fished for Pacific salmon for thousands of years, developing harvest and processing technologies suited to the specific locations of harvest. Traditional fishing technology included weirs, dip and set nets, fish traps, spears and gaff hooks, and poisons. Processing methods included smoking and drying fish; salting, canning, and freezing came into use after contact. Native people annually took an estimated 400 to 450 pounds of Pacific salmon per capita from the Columbia River alone and used the fish for subsistence, in an extensive trade network, and ceremonially.

Access to Salmon

In the Pacific Northwest, many tribal people maintained their fishing rights through federally negotiated treaties and subsequent court cases. The 1854-1855 "Stevens" treaties, negotiated by Washington's territorial governor and superintendent of Indian affairs Isaac Stevens, provided the following provision:

The right of taking fish, at all usual and accustomed grounds and stations, is further secured to said Indians in common with all citizens of the Territory, and of erecting temporary houses for the purpose of curing, together with the privilege of hunting, gathering roots and berries, and pasturing their horses on open and unclaimed lands (1854 Treaty of Medicine Creek).

American settlement and statehood brought property owners who prevented Indian people from crossing privately owned land to reach traditional fishing sites. State regulatory agencies, which sought to bring Indian fishers under their jurisdictions, often adopted race-based regulations that unfairly targeted treaty fishers. By the turn of the century, the influence of non-Native commercial fishers reshaped the salmon fishery on the Columbia River by introducing large-scale canning operations and fish wheels, and setting traps

that required little labor and could harvest tons of salmon during a single run. In 1894 federal officials warned that non-Native overfishing threatened Pacific Northwest runs. As the twentieth century progressed, Indian fishers had access to fewer fishing sites, they faced competition from non-Native fishers, and the runs had begun to falter.

Diminished access to traditional fishing sites and state regulations sent tribal people to the federal courts to protect their fishing rights. In 1887 the federal government sued a private property owner on behalf of the Yakama Nation (*United States v. Taylor*). Frank Taylor, a resident of Klickitat County, Washington, had fenced his land, preventing Indians from crossing it to reach their traditional fishing sites. Subsequent cases protected Indians who adopted modern fishing equipment, affirmed Indian rights to participate in the commercial fishery, and limited state jurisdiction over Native fishers. By the 1970s, federal courts had upheld and defined treaty-fishing rights in numerous cases.

Legal Rulings

Native rights to take salmon were affirmed in *United States v. Winans* (1905) and *Tulee v. Washington* (1942). In *United States v. Winans*, the Supreme Court upheld Indian access rights and asserted that the treaties represented a reservation of rights by tribal people, not a gift of rights by the federal government. In *Tulee v. Washington*, the Court ruled that states could not require tribal fishers to purchase fishing licenses. However, the Court made provisions for state regulation of tribal fishers for the purposes of conservation.

A trilogy of cases, *Puyallup Tribe v. Department of Game* (1968), *Department of Game v. Puyallup Tribe* (1973), and *Puyallup Tribe v. Department of Game* (1977)—commonly referred to as Puyallup I, II, and III—tested the state's ability to regulate Indian fishers as part of its conservation efforts. Earlier cases created a foundation for one of the region's most controversial cases, commonly referred to as the Boldt Decision, which clarified the treaty phrase "to fish in common with the citizens of the territory." Judge George Boldt defined the percentage of the harvest that Indian people had a right to as 50 percent of the available salmon (*United States v. Washington*, 1974). These cases arose out of broader tribal efforts organized to call attention to state interference in treaty fishing rights in Oregon and Washington.

Intertribal agencies whose mission it is to protect treaty-guaranteed fishing rights have organized in part as a result of these court victories. The treaty tribes of western Washington founded the Northwest Indian Fisheries

Commission (NWIFC) in 1975 while the Warm Springs, Yakama, Umatilla, and Nez Perce tribes formed the Columbia River Inter-Tribal Fish Commission (CRITFC) in 1977. These agencies coordinate the protection of treaty fishing rights and the natural resources management efforts of their member tribes. They generate technical information, develop natural resource and restoration policies, and educate the general public about the tribes' role in resource management. Organizations such as the NWIFC and CRITFC complement but do not replace the resource management departments that operate on the various tribal reservations to monitor and restore fish and shellfish stocks.

Since World War II, dams; the overharvest of forests; overfishing, particularly in the open sea; and industrialization threaten Pacific salmon runs. Pacific salmon still ply the waters of the Pacific Northwest and northern California, and Native people have maintained the right to fish salmon through their treaties and federal court decisions. The fight over salmon became emblematic of the struggle among Native people to enforce their treaty rights; nonetheless, this single, complicated issue represents broader concerns regarding access to traditional foods more generally.

See also *Fishing, Hunting, and Gathering Rights*; *United States v. Washington* (1974); *United States v. Winans* (1905).

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BIBLIOGRAPHY

- Ames, Kenneth M., and Herbert D. G. Maschner. *Peoples of the Northwest Coast: Their Archaeology and Prehistory*. New York: Thames and Hudson, 1999.
- Handbook of North American Indians: Northwest Coast: Volume 7*. Smithsonian Institution, 1990.
- Hunn, Eugene S. *Nch'i-wana, "the Big River": Mid-Columbia Indians and Their Land*. Seattle: University of Washington Press, 1990.
- Walker, Deward E., and William C. Sturtevant. *Handbook of North American Indians: Plateau 12*. Smithsonian Institution, 1998.

Sand Creek Massacre (1864)

The Sand Creek Massacre was one of the bloodiest and cruelest acts in American Indian history.

As the United States entered the third year of the Civil War (1861–1865), American settlers continued to move West across and into Indian Territory. The large volume of their travel across traditional Sioux, Cheyenne, and Arapaho hunting grounds sparked Indian raids on settlers and conflicts between migrants and Indians.

Migrants living in or passing through Colorado faced the ongoing threat of Indian attacks. In response, Colorado gov-

ernor John Evans received authorization from the War Department in 1864 to establish the Third Colorado Cavalry. But in spite of numerous forays in search of renegade Indians, the cavalry failed to engage them and were taunted in Denver as the “Bloodless Third.” As November 1864 drew to a close, the Third, which was composed of “100-dayers,” or volunteers who had signed on for only a hundred days for the sole purpose of killing Indians, was nearing the end of its assignment. Denver citizens and the 100-dayers called for a more aggressive policy of Indian pursuit.

Col. John M. Chivington, a Methodist minister, and Governor Evans had met earlier, on September 28, 1864, with the Cheyenne chiefs Black Kettle (Motavato) and White Antelope. Black Kettle was a Southern Cheyenne tribal peace leader who advocated good relations with the Americans and in 1863 had ratified a treaty maintaining peace in Colorado and along the Santa Fe Trail. The chiefs told Evans and Chivington that they wanted peace with the Americans. In November 1864, followers of Black Kettle and White Antelope, as well as some Arapahos, turned in their weapons at Fort Lyon and, for the purpose of negotiating a formal treaty, moved to a camp along Sand Creek near the fort. Black Kettle settled his followers in the area Evans and Chivington had stipulated. Outside his teepee, he flew a U.S. flag and a white flag of truce.

In the early morning hours of November 29, 1864, Chivington deployed his Third Colorado Cavalry, which included seven hundred men and four howitzer cannons, around Sand Creek. Just before daybreak, Chivington led an unprovoked attack, without warning, on the sleeping Cheyenne camp. The Third Colorado, along with the First Colorado Cavalry, then proceeded to kill more than 164 Indians, including men, women, and children.

After the attack, members of the Third Colorado Cavalry vandalized the Indian teepees, taking souvenirs of their “victory.” The most egregious actions were the mutilation of the Indian dead. The “Bloodless Third,” anxious to repair their reputation, displayed their war trophies to the public on the stage of a Denver showplace.

Black Kettle and some of his followers escaped the massacre. But he died four years later when Lt. Col. George Armstrong Custer’s Seventh Cavalry killed him and his wife as they rode out to try to make peace with the U.S. troops.

Although news of the massacre was welcomed in Denver, reports of the slaughter shocked Americans in the eastern United States. Chivington was brought before the Committee on the Conduct of the War and was denounced

and forced to resign from the military. The public outcry moved many Americans to call for an examination of U.S. Indian policy. Congress, partly motivated by Sand Creek, established a joint commission led by Sen. James R. Doolittle of Wisconsin to study federal policy in the West.

After Ulysses S. Grant was inaugurated as president in 1869, he set out to try to reform U.S. policy in the hope of bringing peace and order to the West. The Sand Creek Massacre was a powerful impetus for Grant’s reforms, and it became a symbolic reminder of the way in which the United States treated American Indians in the nineteenth century.

See also *Black Kettle (Motavato)*; *Civil War (1861–1865)*; *Custer, George Armstrong*; *Grant, Ulysses S.*; *U.S. Indian Policy: Congress and the Executive, 1845–1877*.

Troy R. Johnson

BIBLIOGRAPHY

- Brown, Dee. *Bury My Heart at Wounded Knee: An Indian History of the American West*. New York: Henry Holt, 2001.
- Hoig, Stan. *The Sand Creek Massacre*. Norman: University of Oklahoma Press, 1961.
- White, Lonnie J. “From Bloodless to Bloody: The Third Colorado Cavalry and the Sand Creek Massacre.” *Journal of the West* 6 (October 1976): 535–581.

Santa Clara Pueblo v. Martinez (1978)

Santa Clara Pueblo v. Martinez, decided by the U.S. Supreme Court on May 15, 1978, interpreted the Indian Civil Rights Act of 1968 (ICRA) as requiring that all noncriminal suits based upon individuals’ rights under the IRCA be filed in tribal courts. The *Santa Clara Pueblo* case raised complex questions of sovereignty, equality, custom, culture, gender, and identity—issues that have been debated ever since.

Julia Martinez was a member of the Santa Clara Pueblo, a reservation. Julia and her husband had lived in the pueblo since their 1941 marriage. Because he was a Navajo, not a Santa Claran, the Martinezes’ daughter Audrey and their seven other children were prohibited by a 1939 tribal ordinance from becoming Pueblo members, voting in tribal elections, holding tribal office, inheriting their mother’s home, and inheriting their mother’s interests in communal lands. Once their mother died, they would have no right to stay in the pueblo although they had been raised there, lived there as adults, practiced the Pueblo’s traditional religion, and spoke Tewa, the Pueblo’s traditional language. In contrast,

children of male Pueblo members who married outside of the tribe received full tribal membership.

After the ICRA was passed, Julia and Audrey filed a class action suit against the Pueblo and its governor in the U.S. District Court for New Mexico. They argued that the 1939 ordinance discriminated against them and other Pueblo mothers and their children based upon gender and ancestry, thereby violating the ICRA's requirement that tribal laws provide equal protection to all. Before the Supreme Court disposed of their case without ruling on their IRCA rights, the U.S. Court of Appeals for the Tenth Circuit found that their class had been improperly discriminated against. The Tenth Circuit found that the 1939 ordinance was enacted for economic and pragmatic reasons and did not appear to be based upon the Pueblo's traditions or culture.

The Supreme Court left the equal protection question for the Pueblo tribe to resolve. It had previously decided, in *United States v. United States Fidelity & Guaranty Co.* (1940), that Indian tribes have the same sovereign immunity from suits enjoyed by most other sovereign entities within the United States. In *Santa Clara Pueblo*, it said that suits against tribes for ICRA violations cannot be filed in U.S. courts, unless Congress has "unequivocally" waived tribes' sovereign immunity from such suits, which Congress did not do anywhere in the IRCA.

Those wishing to complain of a tribe's violations of ICRA rights must therefore complain to the tribe itself—although the tribe may not even recognize such rights. In September 1981, three years after *Santa Clara Pueblo*, only 73 of the 221 tribal constitutions guaranteed some form of equality, none prohibited gender discrimination generally, and only one prohibited gender-based discrimination in requirements for tribal office.

Santa Clara Pueblo did not decide whether the U.S. government can bring *criminal* prosecutions for violations of ICRA rights in U.S. courts. In *United States v. Wadena* (1998), the U.S. Court of Appeals for the Eighth Circuit upheld the federal criminal convictions of tribal officials who conspired to deprive tribe members of voting rights guaranteed by the ICRA.

See also *Indian Civil Rights Act (1968)*; *Sovereign Immunity*; *Sovereignty*; *Tribal Courts*; *U.S. Supreme Court and Indian Policy, 1978–*.

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BIBLIOGRAPHY

- Berger, Bethany R. "Indian Policy and the Imagined Indian Woman." *Kansas Journal of Law and Public Policy* 14 (2004): 103–115.
- Laurence, Robert. "A Quincentennial Essay on Martinez v. Santa Clara Pueblo." *Idaho Law Review* 28 (1992): 307–347.
- Martinez v. Santa Clara Pueblo*, 540 F.2d 1039 (10th Cir. 1976).
- Milczarek-Desai, Shefali. "(Re)locating Other/Third World Women: An Alternative Approach to Santa Clara Pueblo v. Martinez's Construction of Gender, Culture and Identity." *UCLA Women's Law Journal* 13 (2005): 235–291.
- Rusco, Elmer R. "Civil Liberties Guarantees Under Tribal Law: A Survey of Civil Rights Provisions in Tribal Constitutions." *American Indian Law Review* 14 (1988–1989): 269–299.
- Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978).
- United States v. United States Fidelity & Guaranty Co.*, 309 U.S. 506 (1940).
- United States v. Wadena*, 152 F.3d 831 (8th Cir. 1998), cert. denied, 526 U.S. 1050 (1999).

Satanta

Kiowa chief Satanta (Set-t'ainte or "White Bear"; 1830–1878) was born in the northern Great Plains area and spent much of his adult life fighting the westward-moving American settlers and U.S. military personnel trespassing onto Kiowa territory. Throughout the years he developed a reputation as both a great warrior and an inspiring orator.

After participating in raids along the Santa Fe Trail, in 1866 Satanta became the leader of the Kiowas who favored military resistance against the United States. The U.S. Army, under the command of generals William T. Sherman and Philip Sheridan, carried out a year-round scorched-earth policy against Satanta and his people. In 1867, with his people freezing and starving, Satanta spoke at the Kiowas' Medicine Lodge Council and signed a peace treaty under which the Kiowas would resettle on a reservation in Indian Territory (present-day Oklahoma). When many Kiowas refused to move to the reservation, U.S. officials took Satanta and Lone Wolf, another Kiowa leader, hostage, using their imprisonment to coerce more Kiowas into the reservation.

The treaty recognized the right of the Kiowas to hunt buffalo off the reservation. When the United States failed to keep that promise, Satanta and many of his followers left the reservation and participated in a number of raids into Texas. In May 1871 Satanta led an ambush of a wagon train along the Butterfield Stage Route near Graham, Texas, that resulted in seven deaths and the confiscation of a larger train of ten army freight wagons. Satanta, however, had allowed a train to pass prior to the ambush, not knowing it carried General Sherman. Sherman had Satanta arrested, and a Texas

state court convicted him of seven counts of murder and sentenced him to death. Under pressure from the federal government, however, Texas governor Edmund Davis commuted Satanta's sentence to life in prison.

Satanta was released in 1873 on the condition that he would remain on the Kiowa reservation. Around that time, Comanche chief Quanah Parker was organizing groups of Comanches, Kiowas, Cheyennes, and Arapahos for attacks on American settlers that would lead to the outbreak of the Red River War (1874–1875). Some reports accused Satanta of participating in these raids on American settlements, including the attack on Adobe Walls in 1874. Satanta turned himself in at the Cheyenne agency to try to disprove these rumors, but he was nevertheless charged with violating his parole. The government sent him back to prison. In 1878, after having been informed that he would never be released, Satanta jumped to his death from the second story of a prison hospital.

See also *Parker, Quanah; Red River War (1874–1875); Sheridan, Philip; Sherman, William T.*

Troy R. Johnson

BIBLIOGRAPHY

- Robinson, Charles. *The Indian Trial: The Complete Story of the Warren Wagon Train Massacre and the Fall of the Kiowa Nation*. Spokane, Wash.: A. H. Clark, 1997.
- . *Satanta: The Life and Death of a War Chief*. Austin, Tex.: State House Press, 1998.
- Wharton, Clarence. *Satanta: The Great Chief of the Kiowas and His People*. New York: AMS Press, 1984.

Schoolcraft, Henry Rowe

Henry Rowe Schoolcraft (1793–1864) served for nineteen years as a field ethnologist and Michigan's superintendent of Indian affairs. Schoolcraft was born in New York and attended Union and Middlebury Colleges. In 1817 he traveled west to Missouri and Arkansas, where he came into contact with Native people for the first time.

Schoolcraft's tenure with the Office of Indian Affairs began with the political connections he made when he accompanied Michigan's territorial governor, General Lewis Cass, on an expedition to Lake Superior country in 1820. Cass encouraged U.S. Secretary of War John C. Calhoun to appoint Schoolcraft as Indian agent of Sault Sainte Marie on Lake Superior.

While serving as the Anishinabe's first Indian agent, he met his future wife, Jane, the daughter of a prominent local

Irish fur trader, John Johnston, and his Ojibwe wife, Susan (Ozhaguscodawayquay, daughter of hereditary chief Wabojee of La Pointe). In 1823 Henry and Jane married, and his wife and mother-in-law provided him with connections to, and knowledge of, Ojibwe (Chippewa, Anishinabe) life and language, making it possible for him to become known at the time as an expert on American Indians. Schoolcraft wrote a number of popular books about Indians, and was commissioned by the federal government to prepare a six-volume work on the Native American tribes of the United States.

Eventually appointed superintendent of Indian affairs for Michigan, Schoolcraft was involved in settling land disputes between the Sioux and Chippewas and negotiating several treaties with tribes from Minnesota, Wisconsin, and Michigan. The peace treaties of Prairie du Chien (1825) and Fond du Lac (1826) formalized the tribes' loyalty to the United States, signaling their recognition of U.S. jurisdiction in the area. The Treaty of Washington (1836), signed by Schoolcraft and representatives of the Ottawa and Chippewa nations, resulted in the transfer of more than 16 million acres (6.47 million hectares) of land to Michigan, which acquired statehood shortly thereafter. The terms of the treaty resulted in the unusual requirement of payments in the form of annuities to individuals rather than in lump sums to the chiefs.

Schoolcraft believed that Indians as a "race" would become extinct if they were not separated from whites and removed to the West. There, he believed, Indians could become educated and acculturated and eventually be assimilated by the United States.

See also *Assimilation and Acculturation; Removal.*

Elizabeth Archuleta

BIBLIOGRAPHY

- Bremer, Richard G. *Indian Agent and Wilderness Scholar: The Life of Henry Rowe Schoolcraft*. Mt. Pleasant, Mich.: Clarke Historical Library, Central Michigan University, 1987.
- Miller, Cary. "Gifts as Treaties: The Political Use of Received Gifts in Anishinaabeg Communities, 1820–1832." *American Indian Quarterly* 26 (Spring 2002): 221–245.
- Schoolcraft, Henry Rowe. *Historical and Statistical Information Respecting the History, Conditions, and Prospects of the Indian Tribes of the United States*. Philadelphia: Lippincott, Grambo, 1851–1857.
- Williams, Mentor L., ed. *Narrative Journal of Travels Through the Northwestern Regions of the United States Extending from Detroit through the Great Chain of American Lakes to the Sources of the Mississippi River in the Year 1820 by Henry R. Schoolcraft*. East Lansing: Michigan State College Press, 1953.

Schurz, Carl

Carl Schurz (1829–1906), secretary of the interior under President Rutherford B. Hayes, was a controversial figure in Indian affairs. Born near Cologne, Germany, in 1829, Schurz became politically active in Europe during the Revolutions of 1848. In 1852 Schurz emigrated to the United States. A journalist, opponent of slavery, and a general in the Union Army, Schurz entered politics in 1869 as a Republican U.S. senator representing Missouri. In 1876 he joined the Hayes cabinet.

Schurz's tenure as Hayes's secretary of the interior produced mixed results. He applied his passion for government reform to the notoriously corrupt Indian Service by firing a number of government appointees. This brought him into conflict with members of Congress. He also angered army officials with his refusal to consent to the move of the Office of Indian Affairs back to the War Department. He vigorously pursued a policy of resettling tribes on large, compact reservations, especially in Indian Territory (Oklahoma). Nez Perce and Northern Cheyenne relocations produced considerable suffering and casualties, and it was under Schurz's tenure that the Indian Office pursued the deadly, and politically unpopular, removal of Poncas from Nebraska. Later, in response to intense criticism, Schurz came to favor a less draconian policy that placed tribes on reservations closer to their home territories even as he continued to support policies of assimilation. To this end, Schurz supported the formation of an Indian police force and Indian branches of established schools such as Hampton Institute in Virginia. Schurz ultimately lost the support of Congress and resigned under pressure in 1881.

See also *Assimilation and Acculturation; Carlisle Indian School; Education: Boarding Schools; Hampton Normal and Agricultural Institute; Hayes, Rutherford B.; Indian Police Forces; Interior, U.S. Department of the.*

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BIBLIOGRAPHY

- Priest, Loring B. *Uncle Sam's Stepchildren: The Reformation of United States Indian Policy, 1865–1887*. New Brunswick, N.J.: Rutgers University Press, 1942.
- Trefousse, Hans L. *Carl Schurz*. Knoxville: University of Tennessee Press, 1982.

Scott, Winfield

Winfield Scott (1786–1866) was one of the most distinguished American soldiers of the nineteenth century. Scott's

greatest professional triumph occurred in the United States–Mexican War (1846–1848), during which he conducted a skillful campaign that ended with the fall of Mexico City in 1847. During the U.S. Civil War (1861–1865), Scott's most noted strategic contribution was the Anaconda Plan, a procedure that emphasized a slow strangulation of the Confederacy by a naval blockade and military campaign to open the Mississippi River and split the Confederacy in two.

Scott was also involved in several important actions involving American Indians. He led unsuccessful campaigns against the Seminoles in Florida during the Second Seminole War (1835–1842) and the Creeks in Alabama, both in 1836. His conventional tactics were ineffective against an enemy who would not fight conventional battles. Scott's lack of success in these offensives led to a court of inquiry into his generalship, but he was cleared of misconduct.

In 1838 Scott presided over the removal of the Cherokee Nation from its lands in Tennessee, North Carolina, Alabama, and Georgia to the Indian Territory west of the Mississippi River. Although he directed his troops to treat the Cherokees with kindness, his men rounded up the Cherokees and placed them in makeshift stockades located throughout the Cherokee Nation. Hundreds died in the internment stockades from disease over the summer of 1838; many more perished from being forced onto disease-infested, overloaded boats that took the Cherokees to their destination in the Indian Territory. After realizing that the conditions of the removal were decimating the Cherokee population, John Ross, principal chief of the Cherokee Nation, pleaded with Scott to allow the nation to supervise its own removal, and Scott relented. The Cherokees were not, as many books indicate, forcibly marched to the Indian Territory by the U.S. Army. Rather, the Cherokee Nation directed its own relocation to the West in the fall of 1838 and the winter of 1838–1839.

See also *Army, United States (1784–1890); Second Creek War (1836–1837); Second Seminole War (1835–1842); Removal; Trail of Tears; War of 1812 (1812–1814).*

Bruce Tap

BIBLIOGRAPHY

- Johnson, Timothy D. *Winfield Scott and the Quest for Military Glory*. Lawrence: University Press of Kansas, 1998.
- Peskin, Allan. *Winfield Scott and the Profession of Arms*. Kent, Ohio: Kent State University Press, 2003.

Seaton, Fred A.

Frederick Andrew Seaton (1909–1974) was the U.S. secretary of the interior under President Dwight D. Eisenhower from 1956 until 1961.

Seaton grew up in Manhattan, Kansas, and graduated from Kansas State University in 1931. Six years later he moved to Hastings, Nebraska, where he was the publisher of the *Daily Tribune*. Active in the Republican Party, Seaton was appointed to the U.S. Senate in 1951 to fill a vacancy created by the death of Nebraska senator Kenneth S. Wherry. Seaton remained in the Senate until November 1952. He then held a number of positions under President Eisenhower until he was appointed secretary of the interior. It was during his tenure that Alaska and Hawaii achieved statehood in 1959.

As secretary, Seaton attempted to convince the Eisenhower administration to reconsider termination, the government's plan to withdraw federal services to Native Americans, assimilate them into the majority society, and abolish the tribal organization. In 1958 Seaton announced that no additional tribes would be terminated without their consent. In a speech in Flagstaff, Arizona, that year, he declared that "No Indian tribe or group should end its relationship with the Federal Government unless such tribe or group has clearly demonstrated—first, that it understands the plan under which such a program would go forward, and second, that the tribe or group affected concurs in and supports the plan proposed." He added that it would be "incredible, even criminal," to terminate a tribe before its people were educated and ready to join the majority American society (Francis Paul Prucha, *The Great Father: The United States Government and the American Indian*, 1984).

See also *Eisenhower, Dwight D.*; *Interior, U.S. Department of the*; *Termination and Restoration*.

Justin Corfield

BIBLIOGRAPHY

Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.

Seattle, Chief

Seattle (c. 1786–1866), also known as Sealth, was the son of a Suquamish chief named Schweabe. As a young man, Seattle exhibited excellent leadership skills during a succession of conflicts with other Native groups in present-day western Washington. His skills as a warrior led to him becoming the

leader of a Coast Salish community on the Duwamish River.

In 1855 Seattle joined with the leaders of a number of Native groups in negotiating the Treaty of Point Elliott with Washington territorial governor Isaac I. Stevens. During the negotiations, Seattle supposedly pledged his lifelong friendship to the United States. Although the terms of the treaty called for the establishment of a reservation for his people, the Duwamish never received the promised parcel of land. Dissatisfaction with the treaty led a number of Native groups from the Puget Sound area to join with the Yakama in 1856 to fight against the United States. Reaffirming his loyalty to the United States, Seattle opted not to join in the conflict. The war lasted two years and culminated with the hanging of a Nisqually chief named Leschi.

Seattle is perhaps best remembered for a speech attributed to him by Dr. Henry A. Smith in 1877 in which he criticized the insatiable desire of settlers to own land, asking rhetorical questions such as how could someone own the sky. Beginning in the 1970s, environmental groups began using Seattle's observations to advance their agenda. Although it is doubtful that Seattle ever uttered the words Smith credited him with using, his reputation continues to be inflated by the unconfirmed account, which was published more than ten years after his death. The positive remembrances of Seattle have not extended to his people, as the Duwamish have thus far been unsuccessful in obtaining federal recognition.

See also *Stevens, Isaac Ingalls*; *Stevens-Palmer Treaties (1853–1856)*.

John R. Burch

BIBLIOGRAPHY

- Bagley, Clarence B. "Chief Seattle and Angeline." *Washington Historical Quarterly*, vol. 22 (October 1931): 243–275.
- Bierwert, Crisca. "Remembering Chief Seattle: Reversing Cultural Studies of a Vanishing Native American." *American Indian Quarterly*, vol. 22, no. 3 (Summer 1998): 280–304.
- Furtwangler, Albert. *Answering Chief Seattle*. Seattle: University of Washington Press, 1997.

Second Creek War (1836–1837)

By the 1830s the Creeks already had a long history of conflict with the federal government and the states of Georgia and Alabama. Through a series of treaties, including the Treaty of Fort Jackson (1814), the Creeks had lost vast lands in Georgia and Alabama. The Treaty of Washington (1826) assured the Creeks that the federal government would pro-

tect their remaining lands in Alabama. This did not happen; Alabama extended state authority over the Creeks, and settlers flooded onto Creek lands.

In 1832 the Creeks signed yet another treaty, at Cusseta, that divided up and allotted to individuals the territory of the Creek Nation. The Creeks hoped to remain in Alabama as private property owners living under their traditional laws and political system. The state of Alabama, however, refused to allow this. Instead, it placed them under the jurisdiction of the state while refusing to provide them the civil rights accorded white citizens of Alabama. One particularly damaging law allowed for the Creeks to be arrested or sued in Alabama courts but forbade them from testifying in their own defense. Almost immediately the terms of the Cusseta treaty were violated as settlers flooded onto Creek lands. Unable to testify about the terms of land or debt contracts, many Creek landowners were swindled out of their allotments by squatters or unscrupulous speculators.

Tensions arising from these acts provoked hostilities in 1836 when Creeks attacked a group of speculators from Georgia. Parties of Creeks seized and set fire to a steamboat on the Chattahoochee River, burned a toll bridge that crossed the river, and destroyed other buildings and property. In retaliation, President Andrew Jackson ordered the U. S. army to round up all of the Creeks and move them across the Mississippi River. Georgia and Alabama assembled militias, and Lewis Cass, the secretary of war, sent Brigadier General Thomas S. Jesup to put down the Creek uprising.

By the end of 1836 federal troops had rounded up thousands of Creeks. Any who resisted were handcuffed and chained. By the end of 1837 some twenty thousand Creeks had been removed to Indian Territory, marking the end of their long-standing battle to remain in Alabama. The Creek Nation lost perhaps 25 to 40 percent of its population as a consequence of the war, the roundup, and the long march to the West.

See also *Allotment in Severalty; Creek Civil War (1813–1814); Fort Jackson (1814), Treaty of; Indian Territory; Jackson, Andrew; Removal.*

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BIBLIOGRAPHY

- Garrison, Tim Alan. "Beyond Worcester: The Alabama Supreme Court and the Sovereignty of the Creek Nation." *Journal of the Early Republic* 19:3 (Autumn 1999): 423–450.
- Green, Michael D. *The Politics of Indian Removal: Creek Government and Society in Crisis*. Lincoln: University of Nebraska Press, 1982.

Wright, J. Leitch, Jr. *Creeks and Seminoles: The Destruction and Regeneration of the Muscogulge People*. Lincoln: University of Nebraska Press, 1986.

Second Seminole War (1835–1842)

A product of both the U.S. government's Indian removal policy and the Seminole tradition of taking in runaway slaves, the Second Seminole War (1835–1842) was part of a decades-long conflict between the Seminole Nation of the Florida peninsula and the United States.

After the United States invaded Florida in the First Seminole War (1817–1818) and acquired the peninsula in the Adams-Onís Treaty of 1819, the U.S. government forced the Seminoles to relocate to the interior of Florida. Thereafter, Euro-Americans flooded into Florida territory to raise cattle and grow sugar. The settlers and the federal government viewed the Seminoles as a threat to Florida's security and an impediment to the advance of white "civilization." In addition, the Seminoles' practice of incorporating fugitive slaves into their communities angered southern plantation owners. In response, President Andrew Jackson ordered the War Department to negotiate a series of treaties, including the Treaty of Payne's Landing (1832), in which the Seminoles ostensibly promised to abandon claims to Florida in return for territory in present-day Arkansas. However, the Seminoles were not united in their support for the treaty. Seminole leader Charley Emathla supported removal; others, such as Osceola and Micopany, refused to recognize the treaty.

By the time Jackson deployed federal troops to enforce the treaties in 1835, tensions had risen dramatically. Determined to resist removal, Osceola killed rival leader Charley Emathla in November 1835 and then, on December 28, assassinated Wiley Thompson, the War Department's agent who had once jailed Osceola. At the same time, Seminoles under the command of Micopany, Alligator, and Jumper surprised a column of federal soldiers commanded by Major Francis Dade. Small-scale raids of this sort proved effective and soon became the Seminoles' preferred strategy over the war's duration. Hiding out in the thick vegetation and murky swamps, the Seminoles proceeded to wage a guerilla war consisting of raids on plantations and attacks on federal soldiers.

As hostilities intensified, many Americans grew critical of the war. By its end, the U.S. government had expended perhaps as much as \$40 million (more than the federal govern-

ment's annual budget) and lost over fifteen hundred soldiers, sailors, and state militiamen. Moreover, the war touched upon other controversies of the day. Some northern politicians feared that the government was waging the war merely to help southern planters recapture fugitive slaves. Other critics complained that the persecution of the Seminoles was unjust and unnecessary. Opponents of the war objected, for example, to Major General Thomas Jesup's treacherous capture of Osceola under a flag of truce in 1837. (Osceola subsequently died in prison and an army physician preserved his decapitated head.) The army's use of bloodhounds—also used to track fugitive slaves—to chase down the Seminoles likewise drew criticism.

Despite the critics and mixed military fortune, the army, with the help of allied Seminoles, finally defeated a band led by Halleck, some of the last of the anti-removal holdouts, in April 1842. Altogether the federal government transported some three thousand Seminoles, both captives and willing migrants, to the West. Nonetheless, many Seminoles remained in Florida, where they would fight yet another conflict in the 1850s (sometimes called the Third Seminole War).

See also *First Seminole War (1817–1818)*; Jackson, Andrew; *Osceola*; *Removal*.

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BIBLIOGRAPHY

- Buker, George E. *Swamp Sailors: Riverine Warfare in the Everglades 1835–1842*. Gainesville: University Presses of Florida, 1975.
- Mahon, John K. *History of the Second Seminole War, 1835–1842*. Rev. ed. Gainesville: University Presses of Florida, 1991.
- Missall, John. and Mary Lou Missall. *The Seminole Wars: America's Longest Indian Conflict*. Gainesville: University Presses of Florida, 2004.
- Peters, Virginia Bergman. *The Florida Wars*. Hamden, Conn.: Archon Books, 1979.
- Prucha, Francis Paul. *The Sword of the Republic: The United States Army on the Frontier, 1783–1846*. New York: Macmillan, 1969.
- Twyman, Bruce E. *The Black Seminole Legacy and North American Politics, 1693–1845*. Washington, D.C.: Howard University Press, 1999.

Self-Determination

The federal Indian policy of the early twenty-first century is Indian self-determination and self-governance. Self-determination calls for respect and support of tribal sovereignty, particularly a tribe's authority to decide what needs to be done to support its people and its right to control how those

needs are met. As President Richard M. Nixon noted in his 1970 recommendations for Indian policy, under the policy of self-determination, matters that affect Indians are to be controlled “by Indian acts and Indian decisions.” Since this policy has been in effect, the position of tribal governments has grown stronger. Many tribes have asserted authority over the management of tribal resources and the control and operation of federally funded programs that previously were run by the federal bureaucracy.

The period during which the federal government has applied the policy of self-determination is commonly called the “era of self-determination.” Although scholars agree that the era of self-determination continues to this day, they disagree about when it began. Some historians identify the year 1961 as the starting point, presumably because that was the year of the American Indian Chicago Conference, which resulted in the “Declaration of Indian Purpose,” a document that asserted the right of Indians to choose their own way of life. Others propose 1968 as the starting point of the era of self-determination, because that was the year the Indian Civil Rights Act was passed, and also the year the term *self-determination* was first used by an American president (Lyndon B. Johnson) in referring to Indian policy. Another theory suggests 1970 was the starting point, because that was the year of President Nixon's landmark statement calling for a substantial shift in federal Indian policy, specifically rejecting the previous policy of termination and embracing self-determination.

Although scholars disagree about the precise beginning of the era of self-determination, it is clear that federal support for the previous policy of termination began to wane as early as 1958.

Rejection of Termination

Most Indians had strenuously objected to the previous policy of termination, which called for ending, or dissolving, tribal units and assimilating individual Indians into the general population. The National Congress of American Indians, a supratribal organization made up of tribal leaders and other interested Indians, worked to organize Indian opposition to the policy. Meanwhile, tribes and individual Indians began to lobby and share their concerns with their federal representatives. By the mid-1950s, some members of Congress were calling for a change in policy, citing the faults and disastrous consequences of termination. Spurred by this growing tide of opposition, President Dwight D. Eisenhower's administration began to question the policy,

and in 1958 the secretary of the interior effectively repudiated the policy of forced termination when he stated that no tribe would be terminated without its consent.

Shortly after President John F. Kennedy took office in 1961, his secretary of the interior, Stewart L. Udall, created a task force to study the government's Indian policy and to recommend changes. The group recommended ending termination, but it fell short of advocating the true self-determination policy that developed later. Although there was a complete moratorium on additional forced tribal terminations, the policy still favored Indian assimilation. During this period, the focus was on providing additional aid and assistance to individual Indians, with the hope that greater opportunities would facilitate smoother and more rapid assimilation, thereby leading to the eventual natural obsolescence of tribal units.

Throughout this transition period, tribes and individual Indians continued to lobby for a change in policy. The National Congress of American Indians (NCAI) was often at the heart of these efforts. It was not until the second Johnson term, after his election in 1964, that the federal policy truly became that of tribal self-determination and self-governance. By 1966 Stewart Udall, who stayed on as secretary of the interior after President Kennedy's assassination, was pressing hard for a new official policy to take the place of termination. Those efforts culminated in the Indian Resources Development bill, which Udall submitted to Congress in 1967.

The bill was a clear rejection of the termination policy. It provided for a \$500 million loan fund for economic development projects in Indian Country, and it granted tribes the power, subject to approval by the secretary of the interior, to enact zoning ordinances; to buy, sell, mortgage, and condemn land within their reservations; and to form corporations. Unfortunately, the bill was not without its flaws, which ultimately spurred many tribal leaders and the NCAI to lobby against it. Many tribal leaders viewed the bill as a threat to the special trust relationship between tribes and the federal government. Those who opposed it believed that the opportunities for economic development it provided were not worth the potential loss of the trust relationship. But the most important problem with the bill was that it called for mortgaging tribal lands to fund the programs. Mortgaging tribal land created a serious risk that the land could be taken out of Indian hands.

The defeat of the Indian Resources Development bill stemmed at least in part from the Indian opposition. Soon

thereafter, in March 1968, President Johnson issued a "Special Message to Congress on American Indians," in which he endorsed a policy of Indian self-determination that was more consistent with the wishes of the NCAI. It supported the continuation of the federal trust relationship, Indian participation in federal economic development programs, and a partnership between the federal government and the tribes.

The death of the termination policy was confirmed in 1968 when the Indian Civil Rights Act became law. The act extended certain provisions of the Bill of Rights to tribal actions, and indicated both that tribes would continue to exist and that they would maintain authority over their members and their land. The act also amended Public Law 280 so that tribal consent was required before a state could assert criminal or civil jurisdiction over Indian land, and provided a method whereby a state could "retrocede," or give back, jurisdiction it had previously taken over Indian country within its borders. The ability of tribes to reject state jurisdiction over their land and members was an important and significant shift that supported Indian self-determination.

On July 8, 1970, President Nixon issued a statement outlining his administration's Indian policy and asking Congress to take measures to further the policy. Nixon's call for the repudiation of termination and the support of Indian self-determination did not contain entirely new ideas, but it did serve as the effective impetus for congressional action.

In his statement, Nixon advocated many specific changes, including the following:

- Congress should issue a resolution expressly repudiating the termination policy and making it clear that the United States would honor the treaty and trust obligations.
- Indian programs should be placed under Indian control—that is, tribes should be given an opportunity to take over the control and operation of the federal programs created to support Indians.
- Tribes should be permitted to take control of their schools.
- Funding for Indian health care and urban Indian programs should be increased.
- Congress should pass legislation providing for economic development in Indian Country.

Congress did not issue a resolution expressly repudiating the termination policy until 1988, but it did adopt several of

Nixon's proposals and began passing legislation that put the policy into operation.

Putting the Policy into Effect

The first significant congressional act reflecting the new policy of self-determination was the Menominee Restoration Act of 1973. The Menominee tribe of Wisconsin had been "terminated" by the Menominee Termination Act of 1954. The act had stripped the tribe of federal recognition and turned the reservation into a new county of Wisconsin. The Restoration Act repealed the Termination Act, restored federal recognition of the tribe, and restored tribal supervision over the tribe's land and people. The Menominee Restoration Act was a symbolic repudiation of termination that recognized the policy's tragic failure.

In 1974 Congress passed the Indian Financing Act. It established a revolving loan fund, a loan guarantee and insurance program, and an Indian business development program. The three programs were aimed at providing easier access to funds to aid in the use and development of Indian resources, thereby boosting tribal economies. The loan guarantee program was perhaps the most significant aspect of the act. Previously, Indians had found it difficult to obtain private financing for their ventures because of private lenders' fears the money would be lost. Under the loan guarantee program, the secretary of the interior could guarantee private loans made to individual Indians or Indian organizations, thereby reducing the risks, both real and perceived, in making loans to Indians.

The principal legislation developed from Nixon's 1970 proposals was the Indian Self-Determination and Education Assistance Act of 1975 (ISDEAA). In the act, Congress recognized "the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational as well as other Federal services to Indian communities." The policy laid out in the act provided for the maintenance of the unique relationship between tribes and the federal government, the transition from federal "domination" of the operation and management of programs for Indian peoples, and the development of strong, stable tribal governments.

Title I of the ISDEAA directed the secretary of the interior and the secretary of health and human services to contract with tribal organizations for the delivery of federal programs and services. These contracts gave tribes the opportunity to administer themselves many of the federal

programs that benefited Indians because of their status as Indians. A federal agency could contract with a tribe to operate a program, and, if it agreed, give it the funding set aside for the program. The tribe would use the funding to provide the applicable services to its members as it saw fit, subject to the various conditions and requirements of the contract.

Placing these federally funded programs under tribal control allowed the tribes to run the programs more efficiently and better tailor the programs to the needs of their communities. Under these contracts (known as "638 contracts" for the act's public law number, 93-638), tribes took over the performance of certain law enforcement duties formerly carried out by the Bureau of Indian Affairs (BIA); the operation of hospitals and health clinics formerly run by the Indian Health Service; the operation of elementary and secondary schools formerly controlled by the BIA; the building of reservation roads, also formerly the responsibility of the BIA; and many other programs.

Although the ISDEAA was a watershed moment in the self-determination movement, tribal leaders eventually determined that the act could be improved by initiating an even greater change. One of the difficulties with the ISDEAA contracts was that they required a tremendous amount of paperwork, and the tribal employees who administered the programs often felt as if they answered first to the federal bureaucrats who oversaw the contracts rather than their own tribal leadership. Another issue was that the tribe had to enter into a separate contract for every program it wanted to run. If a tribe wanted to take over the operation of several programs, it had to enter into multiple contracts, each of which required its own paperwork, approval process, and compliance provisions.

In 1988, in an effort to address some of these issues, Congress amended the ISDEAA by adding a Title III. It launched the Tribal Self-Governance Project, which authorized the secretary of the interior to enter into self-governance compacts with a small number of tribes. Under these compacts, the tribes could consolidate the various programs and services and reallocate funds among them, addressing the needs as they saw fit. The compacts covered all of the Department of Interior programs, so that a tribe that had previously been required to enter into numerous 638 contracts could now operate all of its programs under one self-governance compact. The compacts would contain a single annual funding agreement under which the tribes could determine how to prioritize the use of its funds.

The Tribal Self-Governance Project was initially limited to a small number of tribes for a limited trial period. In 1994 Congress passed the Tribal Self-Governance Act, removing the temporary status of the project and opening the program to additional tribes.

Congress also passed many other laws that furthered the policy of self-determination. Perhaps one of the most significant was the Indian Child Welfare Act of 1978 (ICWA). Before ICWA was enacted, there had been a serious problem with state agencies and courts removing Indian children from their families and communities to place them in non-Indian homes; over one-quarter of Indian children had been placed in adoptive, foster, or institutionalized care. In ICWA, Congress recognized that “there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children,” and that one of the purposes of the act was to “promote the stability and security of Indian tribes and families.”

Another significant law, the Indian Tribal Governmental Tax Status Act of 1982, granted the tribes several of the tax advantages enjoyed by states, including freedom from certain excise taxes and the authority to issue tax-exempt bonds for certain projects.

Several laws supported Indian self-determination in education, including the Indian Education Act of 1972, the Tribally Controlled Community College Assistance Act of 1978, and the Tribally Controlled Schools Act of 1988.

The Indian Mineral Development Act of 1982 and the National Indian Forest Resources Management Act of 1990 both provided for greater tribal involvement in the use and development of tribal natural resources.

Finally, the American Indian Religious Freedom Act was enacted in 1978 to protect the religious freedom of Indians, Alaska Natives, and Native Hawaiians.

In another shift stemming from the policy of self-determination, Indian tribes have been recognized as equivalent to states for the purpose of enforcing many of the federal environmental protection laws, such as the Clean Water Act, Clean Air Act, Safe Drinking Water Act, and Comprehensive Environmental Response, Compensation and Liability Act (also known as CERCLA or Superfund).

Congress has also passed several acts granting federal recognition to tribes that were not previously recognized or that had lost recognition. And Congress settled several tribal land claims, either returning land to tribes or compensating them for past wrongful takings of land. Acts such as these reveal the dramatic shift that has taken place since the termination era.

One of the key tenets of the self-determination policy was that the federal government would consult with tribal governments on a government-to-government basis before taking any action that would affect a tribe or its interests. Although this aspect of the policy has been implemented only sporadically throughout the era of self-determination, it has been made the official policy of the executive branch by means of various executive orders, particularly President Bill Clinton’s Executive Orders 13084 (1998) and 13175 (2000). Executive Order 13175, for example, recognizes the right of Indian tribes to self-government and requires that, whenever possible, executive agencies consult with tribes on proposed agency action that would have “tribal implications.”

Revenue Generation and Jurisdiction Issues

Perhaps the two greatest obstacles to the realization of complete tribal self-determination and self-governance are the lack of opportunities for tribes to develop adequate revenue streams to attain self-sufficiency and tribes’ loss of jurisdiction, or control, over certain matters. Although great advancements have certainly been made, particularly in some areas and for some tribes, there also have been massive, crippling setbacks.

Despite all the new programs and opportunities, efforts to help tribes develop sustainable taxation schemes are still crucially absent. For a variety of reasons, including small populations, high levels of poverty, diminished tax jurisdiction, and the break-up of reservation land bases by previous policies, many tribes often cannot raise enough money through taxation to support their programs.

Tribal efforts to generate revenue have at times been aided by the federal courts. The cases *United States v. Washington* (1977) and *United States v. Michigan* (1979) both recognized the Indians’ treaty rights to fish, and they both resulted in the growth of the Indian fisheries business in those regions. The landmark case of *California v. Cabazon Band of Mission Indians* (1987) was the impetus for the Indian Gaming Regulatory Act of 1988, which triggered the proliferation of Indian gaming operations, such as casinos, across the country. For some tribes, gaming has created a tremendous opportunity. Those tribes have been able to use the income generated by those successful gaming operations to increase services to their members, build new tribal centers, develop stronger governments and justice systems, erect new hospitals and wellness centers, found new schools, and create other business enterprises that may further the success of the tribe and its members. But not all tribes have enjoyed such success.

Unfortunately, the federal courts have also dealt some heavy blows to tribes' ability to generate revenue. For example, courts have held that states can tax sales of cigarettes, motor fuel, and tickets to entertainment events when people who are not members of the tribe buy those items on a reservation. By permitting states to tax the on-reservation sale of goods by an Indian retailer, the courts made it all but impossible for tribes to levy their own taxes on those items, because a tribal tax in addition to the state tax would make the goods too expensive. Unfortunately, these tax rulings cut off one of the most effective ways for tribes to generate sufficient tax revenues of their own, thereby making it much more difficult for tribes to fund their own programs.

In addition to the encroachment by states into tribes' ability to tax activities on their lands, many other rulings by the federal courts have diminished tribes' jurisdictions and thus impeded self-determination. For example, in *Oliphant v. Suquamish Indian Tribe* (1978) the Supreme Court held that tribes do not have criminal jurisdiction over non-Indians, even when a non-Indian commits a crime on tribal land. In *Montana v. United States* (1981), the Supreme Court held that tribes generally lack inherent authority to regulate the activities of nonmembers of the tribe when they are on non-Indian-owned land within the reservation boundaries. By stripping tribes of jurisdictional authority over certain activities that occur on their lands, the courts have inhibited the rights of tribes to self-govern effectively.

Tribes are, however, beginning to overcome some of these setbacks by lobbying for legislative changes and entering into government-to-government agreements with states and local governments. For example, in the spring of 2008 the state of Washington enacted a law that grants tribal police officers, in certain circumstances, the authority of a state police officer, thereby allowing tribal police to arrest non-Indians. In some other states, tribes have achieved similar results by entering into "cross-deputization" agreements with county sheriffs.

Summary

By the late 1950s, after it became clear that the termination policy was an unsustainable disaster, many leaders in the federal government began to listen to the calls of tribal advocates for a change in policy. The shift from termination continued through the 1960s, and by the time President Nixon made his 1970 recommendations for Indian policy, the policy of self-determination was in place.

The new policy became law with enactment of the Indian Self-Determination and Education Assistance Act of 1975. The act respected tribal sovereignty and provided binding provisions granting tribes the right to assume control of many of the federal programs designed to benefit tribes and Indian people. Since that time, numerous other laws have been put into place to strengthen tribal governments and further tribal efforts to achieve self-determination.

But the era has not been without its difficulties. The Supreme Court has issued rulings that have tragically hindered tribal self-determination by either stripping tribes of jurisdictional power or allowing states to intrude in the taxation of on-reservation commerce. Despite these faults, the era of self-determination was a welcome replacement of the termination policy, and it has been a relative boon to tribes and tribal interests.

See also *American Indian Chicago Conference*; *American Indian Religious Freedom Act* (1978); *Bill of Rights*; *Bureau of Indian Affairs*; *Clinton, Bill*; *Indian Business Development Fund*; *Indian Child Welfare Act* (1978); *Indian Civil Rights Act* (1968); *Indian Education Act* (1972); *Indian Financing Act* (1974); *Indian Gaming Regulatory Act* (1988); *Indian Health and Healthcare*; *Indian Mineral Development Act* (1982); *Indian Self-Determination and Education Assistance Act* (1975); *Indian Tribal Government Tax Status Act* (1982); *Johnson, Lyndon B.*; *Kennedy, John F.*; *National Congress of American Indians (NCAI)*; *Nixon, Richard M.*; *Public Law 280* (1953); *638 Contracts*; *Sovereignty*; *Termination and Restoration*; *Tribally Controlled Community College Assistance Act* (1978); *Udall, Stewart L.*; *United States v. Washington* (1977); *U.S. Indian Policy: Congress and the Executive, 1960–*; *U.S. Supreme Court and Indian Policy, 1978–*.

Trent Crable

BIBLIOGRAPHY

- California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987).
- Clinton, William J. Executive Order 13084, Consultation and Coordination with Indian Tribal Governments (May 14, 1998).
- . Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (November 6, 2000).
- Cornell, Stephen. *The Return of the Native*. Oxford: Oxford University Press, 1988.
- Ericson, Robert, and Rebecca Snow. "The Indian Battle for Self-Determination." *California Law Review* 58 (March 1970): 445–490.
- Indian Child Welfare Act of 1978*, Public Law 95–608, 25 U.S.C. §§ 1901 et seq.
- Indian Civil Rights Act of 1968*, Public Law 90–284, Title II, 25 U.S.C. §§ 1301 et seq.
- Indian Self-Determination and Education Assistance Act of 1975*, Public Law 93–638, 25 U.S.C. §§ 450 et seq.
- Indian Tribal Governmental Tax Status Act of 1982*, Public Law 97–473, 26 U.S.C. § 7871.
- Montana v. United States*, 450 U.S. 544 (1981).

Nixon, Richard. Message from the President of the United States Transmitting Recommendations for Indian Policy, H.R. Doc. No. 91-93 (July 8, 1970).

Oliphant v. Suquamish Indian Tribe, 435 U.S. 191 (1978).

Randle, Robert. "From National Self-Determination to National Self-Development." *Journal of the History of Ideas* 31 (January-March 1970): 49-68.

Riggs, Christopher K. "American Indians, Economic Development, and Self-Determination in the 1960s." *Pacific Historical Review* 69 (August 2000): 431-463.

Senate Committee on Indian Affairs. Briefing Booklet, *The Enduring Validity of Indian Self-Determination* (January 11, 1999).

Tribal Self-Governance Act of 1994, Public Law 103-413, Title III, 25 U.S.C. §§ 450a note, 458aa et seq.

United States v. Washington, 384 F.Supp. 312 (W.D. Wash. 1974).

Sells, Cato

Cato Sells (1859-1949) served as commissioner of Indian affairs during the Woodrow Wilson administration (1913-1921). Born in Vinton, Iowa, Sells attended Cornell College and gained admittance to the Iowa bar in 1884. In 1907 he moved to Cleburne, Texas, and during the 1912 presidential election became Wilson's chief fundraiser in the state. As a reward for his service, Sells received the appointment to head the Indian office on June 2, 1913.

Although he lacked experience in Indian affairs, Sells accepted the federal government's policy to assimilate Natives into the mainstream society without question and worked diligently to bring about their quick acculturation. In an effort to promote Indian self-sufficiency, he endorsed farming on reservations and called on Congress to provide loans to Indian farmers to purchase seeds, implements, and livestock. A proponent of prohibition, he also enforced measures that forbade the introduction of alcohol onto reservations. Sells was genuinely concerned about the welfare of Indians, and he called attention to the plight of children belonging to the five southeastern tribes of Oklahoma (the Cherokees, Chickasaws, Choctaws, Creeks, and Seminoles) who were being defrauded of their property after a 1908 act of Congress removed them from federal protection.

Sells saw America's entry into World War I (1914-1918) as an opportunity to accelerate assimilation, and he encouraged Indian men to enlist for service and called on their families to boost agricultural production. In 1917 he announced a new policy aimed at hastening the removal of federal control over "competent" Indians by giving them command over their property. The unintended—yet predictable—result of this policy was that many of those newly "competent" Indians quickly disposed of their lands.

Sells resigned from office on March 29, 1921, following Warren Harding's victory in the 1920 presidential election. He died in Fort Worth, Texas, on December 30, 1949.

See also *Agriculture and Agricultural Policy; Assimilation and Acculturation; Bureau of Indian Affairs; U.S. Indian Policy: Congress and the Executive, 1871-1934; World War I, American Indians and*.

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BIBLIOGRAPHY

Britten, Thomas A. *American Indians in World War I: At Home and at War*. Albuquerque: University of New Mexico Press, 1997.

Kelly, Lawrence C. "Cato Sells, 1913-21." In *The Commissioners of Indian Affairs, 1824-1977*, edited by Robert M. Kvasnicka and Herman J. Viola, 243-250. Lincoln: University of Nebraska Press, 1979.

Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.

Tyler, S. Lyman. *A History of Indian Policy*. Washington, D.C.: Government Printing Office, 1973.

Seminole Tribe of Florida v. Florida (1996)

In 1988 Congress passed the Indian Gaming Regulatory Act (IGRA) to govern the operation and regulation of gaming activities by Indian tribes. The act divided gaming on Indian lands into three classes. Class III, the most lucrative type, includes such gaming as slot machines, casino games, dog racing, lotteries, and certain card games. The IGRA stipulates that Class III gaming is lawful only when it is conducted in conformance with a compact between the Indian tribe and the state. Once a tribe requests compact negotiations, the state must enter into the negotiations in good faith or face judicial enforcement. Section 2710(d) of the IGRA established the course of action available to the Indian tribe if the state fails to negotiate in good faith and provides that the U.S. district courts have jurisdiction over causes of actions brought by the Indian tribes.

In October 1995 the Seminole tribe of Florida filed suit against the State of Florida, charging that Florida had failed to negotiate a gaming compact with the tribe "in good faith." The Seminole tribe relied on a provision of the IGRA that expressly waived states' sovereign immunity for purposes of such IGRA lawsuits. However, Florida contended that the Eleventh Amendment to the U.S. Constitution prevented Congress from abrogating the states' immunity to suits brought by Indian tribes against states.

The U.S. Supreme Court agreed with Florida in its decision *Seminole Tribe of Florida v. Florida* (1996). Even though

Congress had enacted the IGRA under its Indian Commerce Clause powers, the Court held that Congress could not use those powers to abrogate state sovereign immunity to lawsuits. The Seminole tribe's case was dismissed.

In response to the decision, the U.S. Department of the Interior issued new regulations in 1999. The regulations provided that if a tribe and state could not agree on a compact, and the state refused to voluntarily waive its sovereign immunity to suit, the secretary of the interior could issue gaming procedures for that tribe. In 2007, however, the regulations were struck down by the Fifth Circuit Court of Appeals in *Texas v. United States* as exceeding the authority of the Department of the Interior.

Despite the ruling in *Seminole Tribe*, the tribe began conducting Class III gaming on its lands. Florida brought suit to enjoin the tribe's operations as illegal in the absence of a tribal-state compact, but the federal appeals court in *Florida v. Seminole Tribe of Florida* (1999) held that the IGRA had not abrogated the tribe's sovereign immunity to suit and dismissed the action.

In 2002 Florida entered negotiations with the Seminole tribe to allow expansion of its gaming operations to include full casino action, and in 2008 the state was still seeking revenue to meet public demands for more government services and lower taxes.

See also *Gaming; Indian Gaming Regulatory Act (1988); Sovereign Immunity.*

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BIBLIOGRAPHY

- Herpers, Laura M. "State Sovereign Immunity: Myth or Reality after *Seminole Tribe of Florida v. Florida*." *Catholic University Law Review*, vol. 46 (1997): 1005–1055.
- Metzler, Daniel J. "The Seminole Decision and State Sovereign Immunity." *Supreme Court Review*, vol. 1996 (1996): 1–65.
- Seminole Tribe of Florida v. Florida*, 517 U.S. 44 (1996).

Seminole War, First

See *First Seminole War (1817–1818)*.

Seminole War, Second

See *Second Seminole War (1835–1842)*.

Seneca Land Rights

Of the Six Nations of the Iroquois, the Seneca Nation held the largest territory. It included six million acres west of

Seneca Lake in the state of New York, as well as extensive portions of northern Pennsylvania and eastern Ohio. Today, the holdings of groups claiming Seneca ancestry include the Cattaraugus (21,680 acres), Allegany (27,968 acres), Oil Spring (640 acres), and Tonawanda (7,549 acres) reservations in New York; the Seneca-Cayuga reservation in Miami, Oklahoma; and rights in the Six Nations of the Grand River reserves near Brantford, Ontario.

During the colonial period and the early years of the United States, the Seneca Nation experienced a steady erosion of land rights and territory. In the early colonial period, European settlers gave Native Americans full title to the lands they occupied. This act served colonial interests in two ways: it was less costly to purchase rather than conquer Indian land, and it was a way of conferring full ownership rights on the governments and settlers who purchased it.

After the French and Indian War (1754–1763), it became English colonial policy to restrict the land rights of Native Americans. The Royal Proclamation of 1763 forbade anyone, without Crown permission, to purchase land west of a line drawn roughly along the crest of the Appalachian Mountains. The Seneca Nation, whose territory was entirely west of the Proclamation Line, could no longer exercise full ownership rights to its territory.

Greater restrictions on Native American land rights became codified in U.S. law after the Revolutionary War. The Trade and Intercourse Acts of 1790 and 1793 restricted all Indian land purchases to the federal government. In its landmark decision *Johnson v. M'Intosh* (1823), the Supreme Court ruled that European nations gained the rights of sovereignty to North America by discovery, and that the United States assumed sovereignty over its territories from the British by conquest. Native Americans, then, held something less than full ownership. However, they did hold rights of occupancy that could only be extinguished by federal—or federally approved—purchases ratified by Congress.

The Seneca Nation lost the bulk of its territory in several treaties negotiated shortly after the Revolutionary War. In the Treaty of Fort Stanwix (1768), the Seneca and the other Iroquois nations ceded their rights to all land in the Ohio territory to the federal government. The Hartford Compact (1786) settled conflicts over territory between New York and Massachusetts. It gave New York sovereignty to land within its current borders and Massachusetts the right to sell the remaining territory of the Seneca Nation, with New York retaining only a mile-wide strip along the Niagara River. In a subsequent transaction, the federal government

sold the Erie Triangle to Pennsylvania, despite the presence of Seneca-occupied villages. The Seneca Nation lost all land rights in these villages because of the 1768 treaty.

In 1787 Massachusetts sold the ownership rights to six million acres of Seneca territory to a syndicate of investors led by Oliver Phelps and Nathaniel Gorham. Phelps and Gorham purchased the eastern third of the territory (2.6 million acres) from the Senecas in 1788. This purchase included the 200,000-acre Mill Tract along the Genesee River that later was the site of Rochester, New York. Massachusetts repossessed the western sections of the territory in 1790 after Phelps and Gorham defaulted on scheduled payments and sold these rights to Robert Morris in 1791. Morris extinguished Seneca title to most of this tract in a treaty signed in 1796 by giving the nation \$100,000 in Bank of the United States stock. The Senecas retained 216,320 acres in eleven reservations, including the Buffalo Creek reservation of 130 square miles. Today, this tract contains much of the city of Buffalo. In 1791 Morris also purchased about half of the eastern portion retained by Phelps and Gorham, and then sold this patchwork of land, in what became known as the Pulteney Purchase, to three British aristocrats. The purchase comprised some one million acres in the heart of traditional Seneca territory. In a series of transactions in the 1790s, Morris sold four-fifths (3.3 million acres) of the western tract to a group of Dutch bankers, who formed the Holland Land Company. Thus most of traditional Seneca territory became owned in fee simple by a handful of wealthy Europeans.

The state of New York and the Holland Land Company and its successors succeeded in acquiring much of what was left of Seneca territory in the first half of the eighteenth century. New York purchased the Niagara Islands from the Seneca Nation in 1815. And the Holland Land Company purchased substantial acreage from the Senecas in a treaty signed in 1826. Further purchases were encouraged by the federal government after 1830 to support its plan to move the Senecas to Indian Territory in Kansas. In a fraudulent treaty signed in 1838, the Ogden Land Company, successor to the Holland Land Company, purchased 114,000 acres from the Senecas, including all Seneca land left in the Buffalo Creek reservation.

Despite the Senecas' outrage at their treatment, a federal treaty in 1842 affirmed the Ogden Land Company's ownership of the Buffalo and Tonawanda reservations and required the Tonawanda Senecas to relocate to the Allegany and Cattaraugus reservations. After litigation, in a treaty

signed in 1857, the Tonawanda Senecas agreed to give up their land in Kansas and were allowed to use \$256,000 of their \$400,000 settlement to repurchase land in the Tonawanda reservation. They acquired a 12,800-acre tract, and today they hold title as a separate Indian nation to 7,549 acres in that tract.

In the 1950s, the federal government took by eminent domain the only Seneca land in Pennsylvania, the Cornplanter Grant of more than 10,000 acres in the Allegheny Valley, in order to build the Kinzua Dam. All 550 of the resident Seneca families were relocated to New York.

The Seneca Nation bitterly contested most of these land cessions, but it had little serious recourse until recently. Although the Senecas lost their claim to Grand Island and other islands in the Niagara River (court decisions declared they had deeded them to the British prior to the Revolutionary War), two other land claim cases have been settled in their favor. The Cuba Lake case, *Seneca Nation of Indians v. New York* (W.D.N.Y. 1998), revolved around land taken by New York from the Seneca Nation by eminent domain in Allegany and Cattaraugus Counties, beginning in 1858. The state wanted to dig a manmade lake to provide water for the Erie and Genesee Valley Canals. This activity ceased in the 1890s, and in 1913 the state began leasing lake-front lots to individuals. The Seneca Nation disputed the state's actions for years. Finally, in 2006 the state and the Senecas reached an agreement in which the sovereign rights to these tribal lands were returned to the Senecas. The state, with federal help, bought out all rights held by the residents and paid the Senecas monetary damages as well.

In an earlier case, *Seneca Nation of Indians v. City of Salamanca* (1988), the issue was leases; years earlier the Senecas had leased land in the Allegany reservation to railroad companies, and the leases included what became the city of Salamanca. Several acts of Congress supported these leases, including a provision passed in 1890 that allowed ninety-nine-year leases. These ninety-nine-year leases, which covered twelve thousand acres, expired in 1991. The Senecas then launched a land claim case in which they asked the residents of Salamanca to substantially increase their lease payments or face expulsion. To settle the case, Congress enacted the Seneca Settlement Act, which provided for \$65 million in compensation to the Senecas, the fair renewal of leases, and a special and unique provision allowing the Senecas to reacquire land anywhere within their ancestral territories in the state, remove it from the tax rolls, and, in some cases, append it to an existing reservation. Indeed, this provision

gave the Senecas the right to purchase land in the heart of Buffalo and use it for a gaming casino.

Because of these two negotiated land claim settlements, Seneca land rights currently exceed those of many other Native American groups.

See also *Fort Stanwix (1768), Treaty of; French and Indian War (1754–1763); Johnson v. M'Intosh (1823); League of the Iroquois; Proclamation of 1763; Trade and Intercourse Acts; U.S. Supreme Court and Indian Policy, 1978–*.

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BIBLIOGRAPHY

- Abler, Thomas S., and Elisabeth Tooker. "Seneca." In *Handbook of American Indians*, edited by Bruce G. Trigger, 5:505–517. Washington, D.C.: Smithsonian Institution, 1978.
- Banner, Stuart. *How the Indians Lost Their Land: Law and Power on the Frontier*. Cambridge, Mass.: Harvard University Press, 2005.
- Brooks, Charles. *Settlement and Market Revolution: The Holland Land Purchase*. Ithaca, N.Y.: Cornell University Press, 1996.
- Graymont, Barbara. *The Iroquois in the American Revolution*. Syracuse: Syracuse University Press, 1972.
- . "New York State Indian Policy after the Revolution." *New York History* 57 (October 1972): 438–474.
- Weaver, Sally. "Six Nations of the Grand River, Ontario." In *Handbook of North American Indians*, edited by Bruce G. Trigger, 15:525–543. Washington, D.C.: Smithsonian Institution, 1978.
- Wyckoff, William. *The Developer's Frontier: The Making of the Western New York Landscape*. New Haven, Conn.: Yale University Press, 1988.

Sequoyah

Sequoyah (c. 1776–1843) led the Cherokees to cultural revitalization through literacy with his invention of the Cherokee syllabary, which is a set of written symbols that comprise a language.

The son of a Cherokee woman and a reputedly white father named Nathaniel Gist (Guess), Sequoyah was born in Taskigi (Tuskegee) in Alabama near Fort Loudon. After fighting in the Creek Civil War (1813–1814), he moved to Arkansas with a group of Cherokees.

Sequoyah may have begun working on reducing the Cherokee language to a written form as early as 1809. At first he tried to create symbols for whole sentences but he was hindered by the infinite character of language. Then he struck on the idea of creating a symbol for each verbalized sound. Skeptics were quieted by the 1821 successful public demonstration of the system, and thousands of Cherokees were conversant with the syllabary within a few years. Sequoyah accomplished what no other person had done

Cherokee Alphabet.					
D _o	R _e	T _i	Ꭰ _o	Ꭱ _u	i _v
Ꭲ _{ga} Ꭳ _{ka}	Ꭴ _{ge}	Ꭶ _{gi}	Ꭷ _{go}	Ꭸ _{gu}	Ꭹ _{gv}
Ꭺ _{ha}	Ꭻ _{he}	Ꭼ _{hi}	Ꭽ _{ho}	Ꭾ _{hu}	Ꭿ _{hv}
Ꮀ _{la}	Ꮁ _{le}	Ꮂ _{li}	Ꮃ _{lo}	Ꮄ _{lu}	Ꮅ _{lv}
Ꮆ _{ma}	Ꮇ _{me}	Ꮈ _{mi}	Ꮉ _{mo}	Ꮊ _{mu}	
Ꮌ _{na} Ꮍ _{na} Ꮎ _{na}	Ꮏ _{ne}	Ꮐ _{ni}	Ꮑ _{no}	Ꮒ _{nu}	Ꮓ _{nv}
Ꮔ _{qua}	Ꮕ _{que}	Ꮖ _{qu}	Ꮗ _{quo}	Ꮘ _{qu}	Ꮙ _{quv}
Ꮚ _{sa} Ꮛ _s	Ꮜ _{se}	Ꮝ _{si}	Ꮞ _{so}	Ꮟ _{su}	Ꮠ _{sv}
Ꮢ _{da} Ꮣ _{ta}	Ꮤ _{de} Ꮥ _{te}	Ꮦ _{di} Ꮧ _{ti}	Ꮨ _{do}	Ꮩ _{du}	Ꮪ _{dv}
Ꮫ _{da} Ꮬ _{ta}	Ꮮ _{de}	Ꮯ _{ti}	Ꮰ _{do}	Ꮱ _{du}	Ꮲ _{dv}
Ꮭ _{sa}	Ꮮ _{se}	Ꮯ _{si}	Ꮰ _{so}	Ꮱ _{su}	Ꮲ _{sv}
Ꮮ _{na}	Ꮯ _{ne}	Ꮰ _{ni}	Ꮱ _{no}	Ꮲ _{nu}	Ꮳ _{nv}
Ꮮ _{ya}	Ꮯ _{ye}	Ꮰ _{yi}	Ꮱ _{yo}	Ꮲ _{yu}	Ꮳ _{yv}

In 1821 Sequoyah developed the Cherokee Nation's syllabary, which later led to the development of Cherokee newspapers and other written documents.

before: he scrutinized and reduced a complex, multidialect language to eighty-five (originally eighty-six) minimal sound units, to each of which he attached a particular symbol.

In 1823 Sequoyah moved to the Arkansas Territory with other migrating Cherokees. He returned in 1825 to the Cherokee Nation (East) to receive a silver medal for his invention from the Cherokee National Council. Thereafter, Cherokee laws, medicinal formulas, and the Cherokee bilingual newspaper, *The Phoenix*, were written and read in the syllabary. Sequoyah's many cultural contributions contradicted policy makers who used the term "uncivilized" to describe Indians, and the use of the syllabary in *The Phoenix* enabled Cherokee leaders to solidify opposition to the United States' efforts to remove the Cherokees.

The U.S. Congress recognized Sequoyah's extraordinary feat in 1828 and granted him \$500 for his invention. Ever concerned with his fellow Cherokees' welfare, he went to Mexico in 1843 to teach the syllabary to displaced tribal members. While there, he grew ill and died before assistance could arrive.

See also Cherokee Phoenix; *Creek Civil War (1813–1814); Removal.*

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BIBLIOGRAPHY

- Bender, Margaret. *Signs of Cherokee Culture: Sequoyah's Syllabary in Eastern Cherokee Life*. Chapel Hill: University of North Carolina Press, 2002.
- Kilpatrick, Jack Frederick. *Sequoyah of Earth and Intellect*. Austin, Tex.: The Encino Press, 1965.

Sequoyah, State of

In the first years of the twentieth century, leaders of the Five Tribes (the five major nations that had originally resided in the Southeast—Cherokee, Chickasaw, Choctaw, Creek, and Seminole) mounted an unsuccessful campaign to bring the Indian Territory into the Union as a state separate from Oklahoma. This effort developed in response to the United States' application of the allotment policy, which, in addition to dividing common lands, brought with it the dismantling of the Five Tribes' political systems and the conferring of American citizenship upon the Indian Territory population.

With their governments set to expire, the leaders of the Five Tribes hoped that their people could at least secure their own state and thus preserve a vestige of their distinct political identity. They adamantly opposed being joined in a single state with the Oklahoma Territory, organized in 1890 after the first of the great land rushes. The 1897 Atoka Agreement, which had provided for the allotment of the Choctaw and Chickasaw Nations, included language indicating that the Indian Territory would join the Union as a separate Indian state.

In August 1905, Five Tribes leaders organized a convention at Muskogee to discuss separate statehood. With the support of many white residents of the Indian Territory, delegates drafted a constitution for the state of Sequoyah, named for the creator of the written symbols that represent syllables in the Cherokee language. Later that year, Indian Territory voters ratified this constitution by overwhelming numbers in a special election.

Although bills to admit the state of Sequoyah were introduced in both the House and Senate, Congress never responded to the separate state idea. In late 1906, a convention met to draft a new constitution for a single state that consisted of both the Oklahoma and Indian Territories. Congress ratified this constitution in September 1907, and a month later President Theodore Roosevelt issued a procla-

mation declaring the state of Oklahoma a member of the Union. The dream of a separate Indian state was dead.

See also *Curtis Act of 1898; General Allotment Act (Dawes Act) of 1887; Indian Territory; Oklahoma; Sequoyah.*

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BIBLIOGRAPHY

- Gittenger, Roy. *The Formation of the State of Oklahoma, 1803–1906*. Norman: University of Oklahoma Press, 1939.
- Maxwell, Amos. "The Sequoyah Convention." *Chronicles of Oklahoma* 28 (Summer 1950): 161–192 and (Fall 1950): 199–240.

Seven Years' War (1756–1763)

See *French and Indian War (1754–1763)*.

Sevier, John

John Sevier (1745–1815), the first governor of Tennessee, exemplified the frontier attitude that existed among American southerners and westerners in the late eighteenth and early nineteenth centuries.

Born into a planter family in western Virginia, Sevier moved into the Watauga area, the western region of North Carolina (present-day Tennessee), in 1773. Sevier was a speculator who engaged in land acquisition schemes in Tennessee and Georgia; he typically ignored colonial and American treaties that guaranteed Indian property rights. He served in the militia during the American Revolutionary War (1775–1783) and led militia forces that fended off the attacks on Watauga led by the Cherokee war chief Dragging Canoe in 1776.

Sevier served as governor of the state of Franklin 1784–1788 and as a member of the Territorial Legislature from 1794–1796. Sevier served as governor of the new state of Tennessee from 1796–1801 and served three more terms from 1803–1809. As governor he dealt directly with the Cherokees and pressed the federal government to obtain more land cessions from them. Sevier later served a term in the state senate and three terms in the U.S. Congress.

Sevier believed that white farmers had a right under natural law to lands that Native Americans hunted, and that white civilization, which he believed was superior to indigenous cultural ways, should prevail. Sevier negotiated with the Cherokees for land cessions. However, when negotiations did not yield success, he attempted to intimidate the Cherokees or take the land by force. He died in 1815 while acting as a boundary commissioner to set the border between Georgia and the Creek Nation.

See also *Dragging Canoe; Lord Dunmore's War; Westward Migration.*

Cynthia Cumfer

BIBLIOGRAPHY

- Cumfer, Cynthia. *Separate Peoples, One Land: The Minds of the Cherokees, Blacks, and Whites on the Tennessee Frontier*. Chapel Hill: University of North Carolina Press, 2007.
- Finger, John R. *Tennessee Frontiers: Three Regions in Transition*. Bloomington: Indiana University Press, 2001.
- Gilmore, James R. *John Sevier as a Commonwealth Builder*. New York: D. Appleton and Company, 1887.

Sheridan, Philip

Philip H. Sheridan (1831–1888), the son of Irish immigrants, grew up in Somerset, Ohio. He graduated from West Point in 1853 and went to Fort Duncan, Texas, with the First Infantry Regiment. A year later, he transferred to the Fourth Infantry Regiment at Fort Reading, California, and spent most of the next five years policing a Native American reservation in western Oregon. In 1855 Lieutenant Sheridan, operating out of Fort Vancouver, participated in the Yakama War (1855–1858). He fought against the Yakamas in a battle near the Yakima River, but the Indians escaped by climbing the cliffs out of a canyon.

When the Civil War (1861–1865) began, Sheridan remained with the Union Army as a quartermaster in Missouri. Bored with the peacefulness of life as a military purchaser, Sheridan pursued a line command. Rising to the rank of brigadier general, Sheridan commanded troops at the battles of Stones River, Chickamauga, and Yellow Tavern, among others.

After the war Sheridan became military governor of Louisiana and Texas. He proved to be an unpopular autocrat and was removed from office by President Andrew Johnson after three months. In September 1867 he received the assignment to suppress the Plains Indians as commander of the Department of the Missouri. For the next sixteen years, except for a two-year sojourn as an observer attached to the German army during the Franco-Prussian War (1870–1871), Sheridan was engaged in conflict with Indians. The mission suited him since Sheridan reportedly once responded to a Comanche chief's identification of himself as a "good Indian" with the retort that "the only good Indians I ever saw were dead." Sheridan expected his commanders to bring "total war" to any tribe that resisted movement to, or strayed away from, a reservation.

In response to the growing defiance against the U.S. reservation policy among Native Americans on the southern

Plains, Sheridan orchestrated a strategy to force them to submit. He planned a winter operation utilizing converging columns of cavalry and infantry to round up Indian warriors whose limited supplies and grass-fed ponies would make them virtually immobile and susceptible to capture. This strategy led to the 1868 massacre of about 103 Cheyenne men, women, and children as well as the slaughter of more than eight hundred Cheyenne ponies and the destruction of the Cheyenne winter supply of food at the Washita River by Lt. Col. George Armstrong Custer and the Seventh Cavalry. Washita proved a debilitating blow to the Southern Cheyennes, and the majority of the tribe members had no choice but to accept settlement on reservations.

Sheridan coordinated the campaigns of Ranald Mackenzie and Nelson Miles against the Comanches, Kiowas, Southern Cheyennes, and Southern Arapahos in the Red River War (1874–1875). Sheridan also ordered the army into the Black Hills and directed the 1876 campaign against the Indians that is notable for the destruction of Custer and the Seventh Cavalry by the Sioux, Cheyennes, and their allies at the Battle of Little Bighorn on June 25 of that year. Sheridan became general-in-chief of the U.S. Army in 1883 and oversaw the defeat and capture of Geronimo. Sheridan succumbed to a heart attack in 1888.

See also *Army, United States; Black Hills; Civil War (1861–1865); Custer, George Armstrong; Geronimo; Little Bighorn (1876), Battle of; United States–Indian Wars (1848–1891); Westward Migration.*

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BIBLIOGRAPHY

- Hoig, Stan. *The Battle of the Washita: The Sheridan-Custer Indian Campaign of 1867–69*. Garden City, N.J.: Doubleday, 1976.
- Morris, Roy, Jr. *Sheridan: The Life and Wars of General Phil Sheridan*. New York: Crown, 1992.
- Utley, Robert M. *Frontier Regulars: The United States Army and the Indian, 1866–1891*. Lincoln: University of Nebraska Press, 1973.

Sherman, William T.

William T. Sherman (1820–1891) was the commanding military general of the United States during most of the major Indian wars in the West. He believed that Native American unrest could best be stifled by the rapid settlement of the West, and he used the U.S. Army to defeat the tribes that resisted and remove them to reservations.

Sherman was born in Lancaster, Ohio. He graduated from West Point in 1840 and served in the Second Seminole War (1835–1842) and the U.S.–Mexican War (1846–1848). After

thirteen years of military service, he left the army in 1853 to work in the private sector. In 1861 he was the superintendent of the Louisiana state military academy when the Civil War (1861–1865) broke out. He rejoined the army and became its most renowned commander after Ulysses S. Grant.

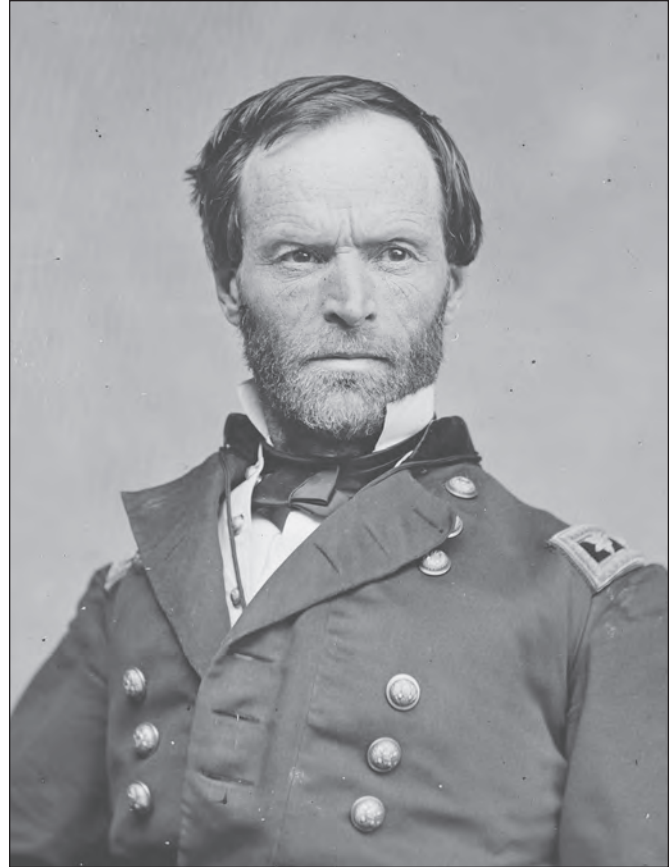
In 1866 Sherman was entrusted with the largest military division in the West, the Division of the Missouri in St. Louis, which was responsible for keeping order and managing the military conflicts with the tribes on the Great Plains. He served on the peace commission that attempted to reduce hostilities with the western tribes and personally visited with the Navajos at the Bosque Redondo internment reservation and recommended that the federal government allow them to return to their homeland.

Sherman was named commanding general of the army in 1869. Consequently, he oversaw the fighting that occurred between the army and tribes all over the West from the late 1860s and until the early 1880s. Every decision that involved the army during that period, whether it was dealing with Geronimo's Apaches in the Southwest, capturing Chief Joseph's Nez Perce warriors in the Northwest, or responding to George Armstrong Custer's annihilation at the Battle of Little Bighorn (June 25, 1876) in the Black Hills, fell under Sherman's responsibility.

Sherman clearly understood the difficult position of the Native Americans, but despite this understanding and the sympathy he sometimes expressed for them, he felt it necessary at times to wage ruthless campaigns against them. Thus, there is clearly continuity between the "total war" he waged against the Confederacy and his conduct of warfare with Native Americans following the Civil War.

After taking command, Sherman called for the army to open a corridor between the tribes on the northern and southern Plains so that they would not interfere with the construction and operation of the Union Pacific Railroad that was planned to traverse the continent. Sherman realized that a considerable increase in army mobility would result from the building of railroads throughout the entire West and worked closely with the railroad companies and their construction crews. Eventually, the railroad network brought considerable change to the nature of conflicts between the army and the western tribes.

Another important element in Sherman's strategy for the western campaigns was his desire to see the buffalo herds eliminated. The buffalo provided Natives with food and the material for clothing, and, he argued, encouraged Indians to maintain their hunting culture. Only if the buffalo culture



Army commander William T. Sherman argued that Indian policy should be set by the army. He maintained that Indians had to reside on reservations, believing that whites and Natives could not cohabitate peacefully.

was eliminated, Sherman believed, would the tribes move to, and remain on, reservations. The Natives needed to reside on reservations, he maintained, because Indians and whites could not live side by side without conflict. On the reservations, moreover, the government could more readily acculturate the tribes and prepare them for their eventual assimilation into mainstream American society.

Sherman also argued that Indian policy should be set by the army, not the Department of the Interior; and he pushed vehemently for the return of the Office of Indian Affairs (OIA) to the War Department. Many of the OIA employees and agents had a deserved reputation for dishonesty and incompetence at this time, and Sherman believed that army officers would be more diligent and disciplined in running the office and its agencies. The existing structure of the army, he added, would provide the institutional oversight and accountability missing from the civilian service.

Ironically, just at the time Congress was willing to give this responsibility to the army, the Piegan massacre caused

such an outcry against army tactics that Congress abandoned consideration of the retransfer. Major Herman Baker led an attack on a Piegan village in 1870, killing and wounding women and children, although the Piegans had had nothing to do with attacks on settlers. Indeed, Baker had been directed to attack an entirely different village. Nevertheless, Sherman did not punish Baker or his troops.

Ultimately, Sherman was successful in pacifying those Native Americans who were regarded as “hostile,” but at a considerable cost to the Native populations, their lands, and their cultures. Upon his retirement in 1883, Sherman declared that the Indians were “substantially eliminated from the problem of the army.” (Prucha, *The Great Father: The United States Government and the American Indians*, 1984.)

See also *Buffalo*; *Civil War*; *Grant, Ulysses S.*; *Piegan Massacre (1870)*; *Railroads*; *United States–Indian Wars (1848–1891)*; *U.S.–Mexican War (1846–1848)*; *Westward Migration*.

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BIBLIOGRAPHY

- Athearn, Robert G. *William Tecumseh Sherman and the Settlement of the West*. Norman: University of Oklahoma Press, 1956.
- Dodge, Richard Irving. *The Sherman Tour Journals of Colonel Richard Irving Dodge*. Edited by Wayne R. Kime. Norman: University of Oklahoma Press, 2002.
- Fellman, Michael. *Citizen Sherman: a Life of William Tecumseh Sherman*. New York: Random House, 1995.
- Lewis, Lloyd. *Sherman: Fighting Prophet*. New York: Harcourt Brace, 1958.
- Marszalek, John F. *Sherman: A Soldier's Passion for Order*. New York: Free Press, 1993.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.

Shoshone Tribe of Indians, *United States v.* (1938)

See *United States v. Shoshone Tribe of Indians (1938)*.

Sibley, Henry Hastings

Henry Hastings Sibley (1811–1891) was a prominent figure in Minnesota politics, but he is significant in the history of U.S.–Indian relations for leading the state militia that defeated the Dakota Sioux in the U.S.–Dakota War of 1862.

Sibley was born on February 20, 1811, in Detroit, Michigan Territory. By 1834, he was operating trading stations for the American Fur Company in the Michigan and Minnesota Territories. In 1841 Sibley had fathered a child,

whom he publicly recognized, with Red Blanket Woman from the Mdewakanton band of Dakotas.

After helping Minnesota win statehood, Sibley became its first governor in 1858. In 1862 Dakota tribes rose up against the white citizens of southwestern Minnesota following decades of conflict. Beginning with the Treaty of 1805, the Dakotas had lost so much land that they were no longer able to subsist on their seasonal crops. By 1862 the Dakotas were starving, and the government had not provided their annuities. On August 18, 1862, a group of Dakotas killed five American settlers. The Dakotas attacked a number of American settlements over the next several days in an effort to drive the settlers out of their territory.

When news of the attacks reached Governor Alexander Ramsey, he commissioned Sibley as a colonel in charge of 1,400 troops of the Sixth Minnesota Regiment. Sibley defeated the Indians on September 23, 1862, at Wood Lake, Minnesota. Sibley captured 2,000 of the Dakotas and turned them over to the Minnesota authorities. The state court tried 392 of the Dakotas and sentenced 303 to hang. Ultimately, President Lincoln commuted all of the death sentences except for thirty-eight men whom he believed had been guilty of murder or rape, and they were executed in a mass hanging. The following summer Sibley led an expedition into the Dakota Territory, where he again defeated the Sioux in a series of skirmishes. The Indians were finally defeated at the Battle of Killdeer Mountain on July 28, 1864. In 1865–1866 Sibley directed treaty negotiations with the Sioux. He left the military service to enter private business shortly thereafter, but returned to Indian affairs when he served as president of the Board of Indian Commissioners in 1875–1876.

See also *American Fur Company*; *Board of Indian Commissioners*; *Killdeer Mountain, Battle of (1864)*; *Little Crow*; *United States–Dakota War of 1862*.

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BIBLIOGRAPHY

- Gilman, Rhoda R. *Henry Hastings Sibley: Divided Heart*. St. Paul: Minnesota Historical Society Press, 2004.

Sitting Bull

Sitting Bull (Tatanka Yotanke) (c.1831–1890), a Hunkpapa Sioux, was a major military, spiritual, and political leader of his people in the 1800s. Born near what is now Bullhead, South Dakota, by age twenty-two Sitting Bull was leading



Sioux chief Sitting Bull, left, toured with Buffalo Bill's Wild West Show later in life. He had refused a government order to report to a reservation and successfully led a large group of Plains Indians against the forces of Lt. Col. George Custer at Little Bighorn.

raids on the Hunkpapas' enemies as the head of a warrior society called the Strong Hearts. Although the Lakota (Sioux) and other buffalo culture tribes controlled the Great Plains during Sitting Bull's youth, in the 1850s American settlers began encroaching, slaughtering the bison in huge numbers and reducing their population from an estimated 63 million in the mid-1700s to fewer than 2,500 in 1890. The bison were the staple of the Plains Indian tribes, providing shelter, clothing, food, and tools necessary for daily survival.

The Hunkpapa Sioux were able to avoid confrontations with the U.S. Army until the U.S.-Dakota War of 1862, when American troops under Henry Hastings Sibley and Alfred Sully chased the Dakotas into Hunkpapa territory. In response, Sitting Bull engaged U.S. forces in conflicts, includ-

ing the Battle of Killdeer Mountain (1864) and the Bozeman Trail War (1865–1868).

When Red Cloud, a major Oglala Lakota leader, signed the Treaty of Fort Laramie (1868), Sitting Bull chose not to validate the treaty or to recognize its territorial provisions, which would have restricted his ability to hunt and travel. Sitting Bull's adherence to traditional ways made him a revered spiritual leader among his people.

In 1874 gold was discovered in the Black Hills of present-day South Dakota, and the ensuing influx of gold-seekers created tensions between Sitting Bull and the U.S. government. After a number of limited engagements, the government ordered all Indian bands to report to their respective agencies. Failure to comply would be considered an act of war. Sitting Bull and his followers refused to surrender, and army generals William T. Sherman and Philip Sheridan prepared to attack in a three-pronged strategy to pin down the Indians in the Bighorn Valley of present-day Montana. Sitting Bull, unaware of the government's plan, gathered tribes willing to make a stand. The result was perhaps the largest concentration of Plains Indians ever assembled. A village of between twelve and fifteen thousand Indians encamped along the Rosebud River where they carried out purification ceremonies in preparation for war. It was during this time that Sitting Bull experienced a vision that he interpreted as a portent of great success in a major battle. On June 17, men under Sitting Bull and Crazy Horse attacked and drove away an invading column led by General George Crook. The Indians then moved to a new camp along the Little Bighorn River.

Lieutenant Colonel George Armstrong Custer was dispatched by General Sheridan to scout for the Indian encampment, with orders not to attack the village if found but to wait for the three main columns of troops. On June 25, 1876, Custer disobeyed orders and divided his own command into three battalions. Without waiting for support he led an attack that resulted in the decimation of his troops. Custer and some 266 officers and men were killed at the Battle of Little Bighorn. Sitting Bull's earlier vision proved prescient.

Sitting Bull, well aware that the U.S. government would seek retribution, headed north into Canada with his followers. When resentment developed among the Lakota and Canadian Indian tribes over access to the now limited buffalo herds, Sitting Bull led his followers back into the United States, where he surrendered in 1881 and was subsequently incarcerated as a prisoner of war at Fort Randall. In 1883 Sitting Bull was released from prison and returned to his

tribe at Standing Rock in present-day North Dakota. In 1885 Sitting Bull joined William F. Cody's Wild West Show for a short period of time and toured the United States and Europe.

In 1889 Sitting Bull returned to Standing Rock where he was imprisoned once again when he refused to abandon the Ghost Dance Religion, introduced by the Paiute shaman Wovoka, which predicted the demise of the white invaders and a return to greatness for Indian people. Later that year Sitting Bull was allowed to return to his cabin on the Grand River where he hoped to live in peace. Indian agent James McLaughlin soon accused Sitting Bull of inciting his followers to join the Ghost Dance, and in December 1890 McLaughlin dispatched an Indian police force of forty men to arrest Sitting Bull. Sitting Bull refused to surrender, however, and during the melee he was shot and killed.

See also *Buffalo; Crazy Horse; Custer, George Armstrong; Fort Laramie (1868), Treaty of; Gold and Gold Rushes; Little Bighorn (1876), Battle of; Red Cloud; Sheridan, Philip; Wounded Knee Massacre (1890); Wovoka.*

Troy R. Johnson

BIBLIOGRAPHY

- Utey, Robert M. *The Lance and the Shield*. New York: Random House, 1994.
- . *Sitting Bull: The Life and Times of an American Patriot*. New York: Holt Paperbacks, 2008.
- Yenne, Bill. *Sitting Bull*. Yardley, Pa.: Westholme, 2008.

Sioux Nation, United States v. (1980)

See *United States v. Sioux Nation (1980)*.

638 Contracts

The Indian Self-Determination and Education Assistance Act, Public Law 93-638, became law on January 4, 1975. It solidified a new policy of self-determination initiated in 1970 that was designed to give Indians greater control over their affairs. A central provision of the legislation allows tribes to request to enter into contracts with the secretary of the interior to administer Bureau of Indian Affairs programs. Another section allows tribes to enter into similar contracts with the secretary of health, education, and welfare to perform functions normally provided by that agency. Both secretaries have the authority to reject a tribe's request if they believe the tribe lacks the ability to fulfill the contracts.

The contracts, known as 638 contracts because of the public law number of the act, authorize the appropriate secretary to transfer funds to a tribe to support the contracted program, in an amount not less than what the federal government would have spent to run the program itself. Contracts have a term of one year, unless the appropriate secretary determines that a longer term is advisable.

Tribes administer a wide variety of programs under 638 contracts, such as grazing permits, forest management, and mineral lease compliance. The contracts do not eliminate federal trustee responsibility, however. In 1994 Congress amended Public Law 93-638 to authorize tribes to enter into self-governance compacts, which allow tribes greater flexibility to administer and redesign federal programs to suit their specific needs.

See also *Indian Self-Determination and Education Assistance Act (1975); Self-Determination.*

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BIBLIOGRAPHY

- Durham, Jessie Huff. "Responsible Sovereignty: How Tribes Can Use Protections Provided in P.L. 93-638 and P.L. 101-152 to Their Advantage Without Taking Advantage." *Tulsa Law Review*, vol. 35 (Fall 1999): 55-62.

Slavery: Enslavement of Indians

Native groups practiced slavery before and after the arrival of Europeans. The Aztecs of Mexico enslaved outcasts and criminals. Mississippian chiefdoms employed unfree labor in their extensive cornfields. Eastern woodlands societies like the Iroquois took captives in "mourning wars"; the captives were executed ritually, adopted to replace dead family members, or held in servitude. During intertribal warfare on the Plains, enemy groups took captives to use in exchanges. In the Southwest, the enslavement of women and children taken in raids enhanced the prestige of warriors and contributed to the development of a complex political economy grounded in kinship and bondage. In the Pacific Northwest, the Tlingits, Modocs, Chinooks, and others obtained and redistributed slaves as a demonstration of wealth. The rules of kinship governed slavery among Native groups, however. Although Indians treated slaves as a distinct class of people beyond the protection of kin, captives often had the potential to become full community members through adoption.

The enslavement of Indians took on new force and meaning with the arrival of European colonists. The Spanish

began enslaving Natives as soon as they arrived in the Caribbean. They considered the taking of slaves a rightful part of conquest, and the Catholic Church sanctioned the enslavement of people who did not accept Christianity. Although the Laws of Burgos of 1512 declared the enslavement of Indians illegal in the Spanish colonies, an amendment in 1513 reinstituted slavery as an alternative to death for Indians who resisted Spanish dominance and became war captives. Some Spaniards, among them Bartolome de las Casas, questioned the legality of Indian slavery, sparking debates in Spain over the humanity and nature of Indian people while the practice continued. In 1539–1541, for example, Hernando de Soto enslaved over five hundred Natives during his expedition through Florida and the Southeast. In 1542 the Spanish government outlawed Indian slavery, but the ruling was largely ignored by colonists. Concerned with its reputation in Europe, Spain issued the Pacification Ordinance of 1573, which committed the Spanish to “just conversion” of Indians. Thereafter, the Spanish worked to Hispanicize Indians in a policy of cultural transformation through Catholic missions.

The French also enslaved Indian people, beginning with the first explorers who took captives to serve as guides and interpreters. The French government initially ignored the issue of Indian slavery, neither authorizing nor prohibiting it. As French trade in North America increased in the eighteenth century, the trading companies pressured the crown, which took indirect action to recognize the existing institution as legal. Jesuit missionaries influenced the French government to prohibit Indian slavery in 1693 and 1736, but these rulings were not enforced. Despite laws that prohibited the enslavement of Christians, French colonists made efforts to convert their captives, and the “Code Noir” of 1724 required Catholic instruction for all slaves in the French colonies. In 1745 the royal council in Paris sanctioned the possession of Indian slaves taken from tribes hostile to French interests. As African slavery grew in importance, French enslavement of Indians declined.

The British participated in an extensive Indian slave trade in the early colonial period. In New England, the Treaty of Hartford (1638), which Massachusetts and Connecticut signed with their Indian allies in the Pequot War (1637), provided for the dissolution of the Pequot Nation and the distribution of surviving Pequots among the victors. The New Englanders enslaved their share of the captives. In the South, Carolinians relied on captives to produce the wealth that would fund the colony’s emerging plantation economy. The

colonists also hoped to weaken Britain’s European rivals in America by destroying their indigenous allies. Warfare with neighboring tribes provided the British with a justification for taking captives. For example, the War of the Spanish Succession (1701–1714) brought a thousand Indian slaves to Carolina from Spanish Florida.

Colonists occasionally kidnapped Indians from friendly groups, a practice laws prohibited not for humanitarian reasons but because colonial proprietors feared incitement of surrounding tribes. The British acquired most of their Indian slaves, however, through trade with tribes. In the early eighteenth century, slavery became closely connected to the deerskin trade as British colonists exchanged their goods for captives of other tribes as well as skins. The intertribal warfare the slave trade provoked had devastating consequences for the Southeast’s Native inhabitants, particularly the thirty thousand to fifty thousand Indians enslaved in the sixteenth and early seventeenth centuries. Small Indian nations faced destruction at the hands of slavers, and some sought protection from more powerful allies, contributing to a process of coalescence that produced new tribes. Other groups formed alliances with France or Spain to ward off British-allied raiders.

The Carolina governments wavered in their attitudes towards Indian slavery. Although the British in the late seventeenth century considered African slavery a moral, legal, and socially acceptable institution, they frequently romanticized Indians as noble. Moreover, the colonial governments feared that the enslavement of Natives would provoke warfare that could destroy the colony. In the temporary laws sent to Carolina in 1671, the proprietors outlawed Indian slavery. Colonial officials circumvented this ruling, and by the 1680s Indian slavery had become an important political issue that divided the colonists and their supporters in Britain. When war broke out with the Stono Indians in 1680, the Carolina governor offered a price for Indians brought to Charleston, sold them as slaves to traders, and used the funds to pay for the colony’s defense. In 1707 the proprietors made efforts to regulate the Indian slave trade by requiring all traders to purchase a license and provide a bond for good behavior, but colonists largely ignored the proprietors’ rulings and continued to engage in the kidnapping and trading of slaves.

The proprietors’ inability to control the colonists eventually provoked the Tuscarora (1711–1713) and Yamasee (1715–1717) wars. Although the British made peace with most of the Indians groups in the region by 1717, the Indian

slave trade would never regain its former importance. Fearful of future uprisings, the British colonists concentrated their efforts on African slavery and used emerging racial ideology to keep Africans and Indians apart and mutually hostile. Black, rather than Indian, slave labor became South Carolina's principal source of wealth from the Yamassee War until the Civil War. In later years, African slaves became the primary source of labor for American colonists.

See also *France, Indian Policy of; Great Britain, Indian Policy of; South Carolina, Indian Policy of; Spain, Indian Policy of.*

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BIBLIOGRAPHY

- Brooks, James F. *Captives and Cousins: Slavery, Kinship, and Community in the Southwest Borderlands*. Chapel Hill: University of North Carolina Press, 2002.
- Gallay, Alan. *The Indian Slave Trade: The Rise of the English Empire in the American South, 1670–1717*. New Haven, Conn.: Yale University Press, 2002.
- Laubert, Almon Wheeler. *Indian Slavery in Colonial Times Within the Present Limits of the United States*. New York: Columbia University, 1913.
- Starna, William A., and Ralph Watkins. "Northern Iroquoian Slavery." *Ethnohistory*, vol. 38, no. 1 (Winter 1991): 34–57.
- Winston, Sanford. "Indian Slavery in the Carolina Region." *Journal of Negro History*, vol. 19, no. 4 (October 1934): 431–440.

Slavery: Indian Slaveholding

The idea of holding people in bondage was not a foreign idea for many Native American societies. Some Indian nations in North America engaged in what some consider a form of slavery long before the arrival of Europeans, and many individuals among the tribes in the Southeast purchased and held African slaves in the nineteenth century. The fact that many Native Americans possessed African slaves demonstrates how complicated race relations among whites, blacks, and Indians became in the United States.

Eastern woodlands societies acquired "slaves" in "mourning wars," or combat conducted to avenge or replace lost kin. Captives taken in a mourning war faced three possible fates: death by torture to alleviate the grief of those who suffered a relative's loss in battle; adoption to replace a lost family member; or as a servant, engaging in subsistence and domestic chores for the family. In the Pacific Northwest, slaves would be given to others by the Tlingits, Modocs, Chinooks, and other peoples as a demonstration of wealth, or they could face ritual murder to be buried with a deceased chief. This practice was generally abandoned in the nineteenth

century under pressure from Great Britain and the United States, as well as from the influence of Christian missionaries and perhaps also for social and economic reasons.

Another form of slavery practiced by Indians began as barter between Indians and European traders seeking cheap labor in their colonies. Native Americans would trade captives taken in battle with European merchants in exchange for manufactured goods such as guns and ammunition. A 1708 Carolina census notes that 1,400 of the 4,300 slaves in the colony were Native American. As merchant demand grew, European parties worked to stoke conflict between Indian nations to generate battle—and thus captives—from which they could further benefit in trade.

As this practice became more common, Indian nations banded together to increase their numbers and discourage slave-taking. The Tuscaroras, in what is now North Carolina, preemptively attacked the English (1711–1713), while the Yamassee of South Carolina launched a series of attacks against settlers in that colony in 1715. Both incidents were in part motivated by Indian anger over English traders who sold their kin and neighbors into slavery.

In some instances, tribes aligned themselves with the colonizers in the slave trade. The Chickasaws worked with both the French and the British, raiding throughout their territory against the Choctaws and the Arkansas, among others, and providing captives to their European allies. By the mid-eighteenth century, however, the influx of African slaves into the colonies had grown significantly in volume and supplanted the supply of Indian captives.

African slaves provided the third form of forced labor practiced by Native Americans, who purchased or captured them. Most Native Americans did not possess slaves, but a small class of bicultural Indians—about 10 percent—embraced the practice, particularly for the cultivation of agriculture. U.S. agents, operating under the goals of the "civilization program" begun in the founding years of the republic, encouraged Indians to farm in the same manner as Anglo-Americans. In the South, the model farms the United States established to instruct Indians in proper farming techniques used slave labor. Among Indian slaveholders were Greenwood LeFlore (Choctaw), Alexander McGillivray (Creek), and William McIntosh (Creek), as well as the Cherokee Ross and Ridge families. They established large plantations, worked by African slaves, that rivaled those of many wealthy white planters.

The Five "Civilized" Tribes—the Cherokees, the Choctaws, the Chickasaws, the Creeks, and the Seminoles—

acquired their sobriquet in large part due to the adoption by many of such “civilized” traits as private land ownership, planter culture, and the practice of slavery. Before their removal to the Indian Territory in present-day Oklahoma, the Cherokee government enacted a number of laws regulating slavery and race relations. The 1827 Cherokee constitution, for instance, refused property ownership to slaves or their descendants, denied them the ability to vote, and did not allow blacks to marry Indians or whites. Slaves also could not participate in political activities. Other Southeastern tribes followed suit and also provided legal sanction for slavery and racial separation in their laws.

In the late eighteenth and early nineteenth centuries, Spanish-controlled Florida became the destination for many freed or runaway slaves, who established villages in the wilderness. Red Stick Creeks who escaped the Creek Civil War (1813–1814) also fled into Florida, taking up land left open after the annihilation of Indian nations there. These “Seminoles,” as they came to be called, had a complicated relationship with their black neighbors. Slaves possessed by the Seminoles were sometimes taken captives in war; in some cases, the Seminoles held African slaves. Some slaves were adopted into Seminole families. The Seminoles did not generally sell slaves, and they considered the children of slaves to be free. Free blacks or fugitive slaves who were considered part of the tribe were called maroons. Some “black” Seminoles established their own villages, and they fought alongside the Seminoles in battle. Black Seminoles particularly feared capture by the English, who would force them into slavery.

The Indian Removal Act of 1830 under President Andrew Jackson relocated the Indian nations east of the Mississippi River into the Indian Territory. Several Native leaders from the southern tribes, many of them slaveholders, often believed it was better to cooperate and relocate peacefully, and in this they clashed with many who continued to hold to traditional lifestyles, creating discord within tribes. Whether through controversial agreements with the U.S. government or by force, by 1843 all of the major Southeastern tribes were relocated to Indian Territory, and slave-owning Indians brought their slaves with them.

After the outbreak of the U.S. Civil War (1861–1865), agents from the United States and the Confederate governments attempted to sway the slaveholding southern tribes to their side. The southern tribes, perhaps in response to their common interest in slaveholding, and partly over the anger caused by the Union’s suspension of annuity payments,

aligned with the Confederacy. The Southeastern Indian tribes, however, became bitterly divided over the questions of slavery and military alliance.

After the war ended, the United States forced slaveholding tribes to abolish slavery and admit their freed slaves as citizens as a condition for restoring relations. The tribal citizenship status of the descendants of those “freedmen” remains a controversial issue among some Southeastern tribes today.

See also *Civil War (1861–1865); Civilization Program; Confederate States of America; Freedmen; Indian Territory; LeFlore, Greenwood; McGillivray, Alexander; Opothleyahola; Ridge Family; Ross, John; Slavery: Enslavement of Indians.*

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BIBLIOGRAPHY

- Gallay, Alan. *The Indian Slave Trade: The Rise of the English Empire in the American South, 1670–1717*. New Haven, Conn.: Yale University Press, 2002.
- Littlefield, Daniel F., Jr. *Africans and Creeks: From the Colonial Period to the Civil War*. Westport, Conn.: Greenwood Press, 1979.
- Perdue, Theda. *Slavery and the Evolution of Cherokee Society, 1540–1866*. Knoxville: University of Tennessee Press, 1979.
- West, Jean. “Seminoles and Slaves: Florida’s Freedom Seekers.” Slavery.org. www.slaveryinamerica.org/history/hs_es_seminole.htm.

Slocum, John

John Slocum (c. 1840–c. 1897), a member of the Squaxin Island Tribe, was a Native American prophet born near Puget Sound in Washington Territory. In fall 1881 Slocum was reported dead as a result of a logging accident. He regained consciousness, however, and announced that while in a trance he had been transported to heaven where he received instructions on how Indian people could survive the trauma of reservation life. He declared that Indian people must stop drinking, gambling, and relying on Indian shamanism for healing.

Slocum’s new teachings combined traditional Native spirituality with both Protestant and Roman Catholic influences. In keeping with Christian teachings, Slocum taught that Jesus Christ had lived on earth and would return again. Indian people were instructed to pray and attend church services regularly. Slocum stated that he had been told in his vision that if Indians followed these teachings, God would give them a great and unique religion to help them.

In 1882 John Slocum became seriously ill. His wife, Mary, found him near death, and as she approached his bed she

began shaking uncontrollably. Slocum's health soon improved, and his recovery was attributed to Mary Slocum's shaking, which was interpreted as a sign of divine powers. The religion was named the "Shaker Religion" (no relation to the movement that originated in Britain in the eighteenth century) after the shaking or twitching motion participants experienced during healing or "brushing off" their sins while in a meditative state.

The Shaker Church was formally organized as an association on June 7, 1892, at Mud Bay, Washington, and incorporated on June 20, 1910, at Olympia, Washington. The Shaker faith spread across the Pacific Northwest and western Canada (regions where it continues to be practiced today.) In the early twentieth century, the Office of Indian Affairs feared that the faith encouraged Indians to resist acculturation and tried to discourage its introduction onto other reservations. The office prohibited or restricted some rituals, but did not forbid the faith. The government's and Christian missionaries' efforts to repress the faith failed and were abandoned when John Collier became commissioner of Indian affairs and directed the OIA to respect the religious liberty of Native Americans.

See also Collier, John; *Missions and Missionaries; Religious Organizations and Indian Policy.*

Troy R. Johnson

BIBLIOGRAPHY

- Barnett, Homer Garner. *Indian Shakers: A Messianic Cult of the Pacific Northwest*. Carbondale: Southern Illinois University Press, 1957.
- Johnson, Troy. *Distinguished Native American Spiritual Practitioners and Healers*. Westport, Conn.: Oryx Press, 2002.
- Ruby, Robert H., and John A. Brown. *John Slocum and the Indian Shaker Church*. Norman: University of Oklahoma Press, 1996.

Smallpox

The indigenous peoples of North America lacked immunity to the infectious diseases that had ravaged Europe, Asia, and Africa for centuries. Scholars contend that the Native population in North America declined somewhere between 80 and 95 percent between the first arrival of Europeans in the sixteenth century through 1900, when the Native population reached its lowest point of around 250,000.

More than any other disease, smallpox (*variola virus*) devastated the American Indian population. Highly communicable and virulent, epidemics from smallpox decimated Native populations, reducing Indian military strength and opening up the interior of the continent to European-

American expansion. Combined with malnutrition, dehydration, and contraindicated healing practices, smallpox killed more Native Americans than all military conflicts combined. For example, the 1837–1840 northern Plains smallpox epidemic was responsible for the deaths of more than 90 percent of the Mandan, one-half of the Assiniboiné Sioux and Arikara, two-thirds of the Blackfeet, one-third of the Crow, and one-quarter of the Pawnee tribal populations.

The catastrophic effect of smallpox on Native populations was, for the most part, an unintentional byproduct of European contact; however, there were instances where the agents of the British and American governments intentionally passed the disease on to Indians. An oft-cited incident occurred in 1763 at Fort Pitt, when Britain had just supplanted France for dominance over eastern North America by triumphing in the French and Indian War (1754–1763). France's Indian allies had rallied behind Pontiac, an Ottawa chief who was leading an armed movement to drive the British from their territory. As the rebellion pushed into western Pennsylvania, placing Fort Pitt under siege, the British commander in North America, Jeffrey Amherst, encouraged his commander in the West to send or trade blankets and handkerchiefs tainted with smallpox to infect Indians.

Since Dr. Benjamin Rush first inoculated the Miami Chief Little Turtle in 1797, federal vaccination policy responded to smallpox epidemics among specific groups of Native Americans; the government did not take a preventative approach until after 1871. As a result of the Indian Vaccination Act (1832), between 38,000 and 55,000 Native Americans were vaccinated from 1832 until 1841. Vaccination was successful in reducing Indian mortality from smallpox. However, who received these vaccinations was often the result of the politics involved in Indian removal policy and the consolidation of Native groups on reservations. It was no accident that in 1832 the economic and political motives of Secretary of War Lewis Cass determined the selection of tribes to be vaccinated or excluded. Tribes considered to be vital trading partners, such as the Sioux nations, received extensive coverage under the Indian Vaccination Act; less economically viable or unwelcoming groups, such as the Mandans, Hidatsas, Blackfeet, Crees, and Assiniboiné Sioux, were excluded deliberately. These policy decisions facilitated European-American westward expansion at the expense of Native peoples.

It is not known exactly when smallpox was eradicated among the Indian tribes, but it is clear that there were no

more epidemics after around 1900. The United States ended routine smallpox vaccination in 1972, signaling a triumph over the disease. In 1979 an international commission certified that smallpox had been eradicated, and the Thirty-third World Health Assembly officially accepted this certification in 1980. Routine vaccinations ended worldwide in the early 1980s.

See also *Disease; French and Indian War (1754–1763); Indian Health and Healthcare; Pontiac's Rebellion (1763–1766).*

John M. Shaw

BIBLIOGRAPHY

- Boyd, Robert. *The Coming of the Spirit of Pestilence*. Vancouver: University of Washington Press, 1999.
- Crosby, Alfred W. *The Columbian Exchange: Biological and Cultural Consequences of 1492*. Westport, Conn.: Greenwood Press, 1973.
- Dollar, Clyde D. "The High Plains Smallpox Epidemic of 1837–38." *Western Historical Quarterly* 8:1 (January 1977): 24.
- Pearson, J. Diane. "Lewis Cass and the Politics of Disease: The Indian Vaccination Act of 1832." *Wicazo Sa Review* 18:2 (Fall 2003): 9–35.
- Ranlet, Philip. "The British, the Indians, and Smallpox: What Actually Happened at Fort Pitt in 1763?" *Pennsylvania History* 67 (Summer 2000): 427–441.
- Thornton, Russell. *American Indian Holocaust and Survival: A Population History Since 1492*. Norman: University of Oklahoma Press, 1987.

Smith, Kenneth L.

Kenneth L. Smith (1935–), a member of the Wasco Tribe of north-central Oregon, served as the assistant secretary of the interior for Indian affairs in the Reagan administration (1981–1984). Smith's policies, based upon free enterprise and tribal self-sufficiency, reflected the administration's push for limited government. In the area of education, Smith advocated for either the closure of many Native schools or their transfer to state operation, as well as for cuts in Native education programs within public schools. He also pushed for an end to Native employment programs under the Comprehensive Employment and Training Act and for cuts in the Indian Health Service. Smith's policies were not widely embraced by Native communities.

Smith's support of the corporate sector was consistent with his commitment to the establishment or expansion of Native business development programs. Smith also sought funds to increase the efficiency of tribal government management. In contrast to the policies noted above, Smith's endorsement of the development of reservation-based gambling, which he viewed as an avenue toward self-determination and self-sufficiency, was highly popular amongst Native groups.

See also *Education: Reservation Schools; Gaming; Indian Health and Healthcare; Reagan, Ronald.*

Kristin Teigen

BIBLIOGRAPHY

- Cook, Samuel R. "Ronald Reagan's Indian Policy in Retrospect. Economic Crisis and Political Irony." *Policy Studies Journal* 24:1 (1996): 11–26.

Smith, Redbird

Redbird Smith (1850–1918) was a Cherokee religious and political leader remembered for his strong opposition to allotment at the turn of the twentieth century. Born in the Cherokee Nation, he grew up in a culturally conservative family and community. By the late 1880s, he had become a leader in the Keetoowah Society, an organization that encouraged unity within the nation and sought to promote the interests of more traditional Cherokees. In particular, Smith represented those who believed that a revival of the traditional Cherokee religion was necessary if the nation was to remain strong. By this time, the United States was pressuring the Cherokees to dismantle their government and allot their common lands, and Smith saw the Cherokees' religious and political fates as intertwined.

At the end of the 1890s, Cherokee government leaders concluded that allotment could not be avoided, and they entered negotiations with the Dawes Commission. Smith, however, urged continued opposition, advising Cherokees to refuse registration for land. This sparked a disagreement among Keetoowahs, some of whom felt that further resistance was futile. Eventually, Smith and his following withdrew to form a new organization, the Nighthawk Keetoowahs. In the first years of the twentieth century, as many as five thousand Cherokees rejected enrollment, leading the Dawes Commission to assign lands to Cherokee citizens against their will. Smith and several others were arrested and jailed briefly for their part in the resistance. Smith finally accepted his allotment in 1910, three years after Oklahoma statehood.

See also *Allotment in Severalty; General Allotment Act (Dawes Act) of 1887; Indian Territory; Oklahoma.*

Andrew Denson

BIBLIOGRAPHY

- Hendrix, Janey B. *Redbird Smith and the Nighthawk Keetoowahs*. Park Hill, Okla.: Cross Cultural Education Center, 1983.
- Thomas, Robert K. "The Origin and Development of the Redbird Smith Movement." Master's thesis, University of Arizona, 1953.

Smithsonian Institution

On his death in 1829, British scientist James Smithson's will named his nephew, Henry James Dickinson, as beneficiary on the stipulation that should Dickinson die without heirs, the estate would go to the United States to found the Smithsonian Institution in order to "increase and spread knowledge around the world." Dickinson died without an heir in 1835.

Why Smithson left this money for such an establishment remains a mystery. He never traveled to the United States, and there are no records of his corresponding with American scientists. Some have suggested that the bequest was motivated by revenge against the rigidity of British society, which denied him the use of his father's title. Others argue that Smithson was committed to the Enlightenment ideas of democracy and universal education. Whatever the reason, Smithson's bequest became the foundation for the establishment of a warehouse for American knowledge.

Six years after Smithson's death, President Andrew Jackson announced the bequest to Congress. On July 1, 1836, Congress accepted the money and pledged the United States to the creation of a charitable trust. In September 1838, Smithson's legacy, which totaled more than 100,000 pieces of gold, was received at the Philadelphia mint and recast in United States currency to total more than \$500,000. After eight years of heated debate, President James K. Polk signed the act that ushered the Smithsonian Institution into existence. The new institution would be administered by a board of regents and a secretary of the Smithsonian.

Unfortunately, the history between Indian people and the Smithsonian has been one of misunderstanding and misappropriation. As the Smithsonian Institution promptly dedicated itself to the creation of a national natural history museum, American Indians were seen as an important cultural inclusion. Natural history museums, like mausoleums, serve as repositories for deceased beings and previously utilized objects. As at most museums, the bodies and art of Indians appeared in the same way: mannequins of the past without an obvious present or future. Presentations of this nature served a specific ideological purpose in that they illustrated what can be learned about natural living from past Indian life, but they neglected to show that Indians still existed or could continue to teach. Thus, whatever was learned from Indians was devalued with the implication that it did not help them survive into the present times.

The passage of the National Museum of the American Indian Act of 1989, which required the return of thousands of items, including remains, to the Indian people, severely damaged the Smithsonian's once large collection of Indian items. However, that same year the Smithsonian Institution acquired the National Museum of the American Indian collection of the Heye Foundation of New York City, which was distinguished by thousands of masterworks by not only Native American Indians but also those from Central and South America. With this new collection, the Smithsonian Board of Regents decided that the last available spot on the Washington National Mall would be used to build the National Museum of the American Indian. American Indian people played a major role in the creation of the new building and its displays, including religious and ceremonial objects associated with living cultures that are displayed only with the approval of the appropriate tribes. The result is a museum that displays Indian cultures as both living and historical.

See also *National Museum of the American Indian Act (1989); Native American Graves Protection and Repatriation Act (1990).*

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BIBLIOGRAPHY

- Baker, Lee D. *From Savage to Negro: Anthropology and the Construction of Race, 1896–1954*. Berkeley: University of California Press, 1998.
- Burleigh, Nina. *The Stranger and the Statesman: James Smithson, John Quincy Adams, and the Making of America's Greatest Museum: The Smithsonian*. New York: Harper Collins, 2003.
- Ewing, Heather. *The Lost World of James Smithson: Science, Revolution, and the Birth of the Smithsonian*. New York: Bloomsbury, 2007.
- Hinsley, Curtis M., Jr. *Savages and Scientists: The Smithsonian Institution and the Development of American Anthropology, 1846–1910*. Washington, D.C.: Smithsonian Books, 1981.

Smohalla

Smohalla (c. 1815–c. 1890) was born in the area of present-day Wallula, Washington. He belonged to the small, Sahaptin-speaking Wanapam tribe (related to the Nez Percés) that lived in the Big Bend area of the Columbia River. Smohalla and his followers left the area around 1850 after coming into conflict with the influential Wallawalla chief Homili, who feared Smohalla's rising importance as a spiritual leader.

Smohalla attained his healing power through the vision quest ritual that was traditional for a youth of the Wanapam. During one such quest Smohalla reputedly received the ability to communicate with animals and to foretell the future. Smohalla is believed to have had two death and rebirth

experiences in which he traveled in death to receive instructions from the Great Spirit. In the resurrection experience, he brought back a message that the Wanapam were to stay away from reservations, reject American culture, and resist the U.S. government, Christianity, and alcohol. He introduced a new religion, called the Dreamer Religion, that focused on the belief in an impending destruction and renewal of the world during which the dead would return.

Smohalla advocated the preservation of traditional subsistence practices, such as fishing and gathering, and the adoption of an ascetic religious life. His many disciples assisted in the rapid spread of the Dreamer Religion, which inspired Indian resistance to the reservation and assimilation policies of the U.S. government and materially contributed to the formation of a confederation of tribes in the region focused on resisting white expansion during the Yakama War (1855–1856). Despite government opposition and interference, Smohalla practiced his religion until the end of his life in 1890. The Shaker Religion in the Pacific Northwest region (not related to the Shaker religion of the Quakers) and the Washat/Seven Drums Religion of the Columbia Plateau are derived from the Dreamer Religion.

See also *Joseph, Chief; Religious Organizations and Indian Policy; Slocum, John; Wovoka; Yakama War (1855–1856).*

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BIBLIOGRAPHY

- Cebula, Larry. *Plateau Indians and the Quest for Spiritual Power, 1700–1850*. Lincoln: University of Nebraska Press, 2003.
- Johnson, Troy. *Distinguished American Spiritual Practitioners and Healers*. Westport, Conn.: Oryx Press, 2002.
- Relander, Click. *Drummers and Dreamers*. Seattle: Northwest Interpretive Association, 1986.
- Ruby, Robert H., and John A. Brown. *Dreamer-Prophets of the Columbia Plateau: Smohalla and Skolaskin*. Norman: University of Oklahoma Press, 1989.

Smoke Shops

In the early 1970s, many tribes established reservation-based smoke shops, in which they offered low-priced cigarettes exempt from state taxes, as economic development projects. Native tribes had been selling tobacco since the 1860s, but the creation of tribally owned smoke shops encouraged the dramatic spread of the practice. As the revenue from smoke shops grew into the millions of dollars, the ventures became increasingly popular among tribes into the 1980s and 1990s.

Cigarette sales provided significant income for tribes but also created controversy. For example, many states became

fearful of losing significant revenue from the taxation of cigarettes. In 1976 the U.S. Supreme Court ruled in *Moe v. Confederated Salish and Kootenai Tribes of the Flathead Reservation* that non-Indians making purchases had to pay the state cigarette tax and the tribe had to pass the collected funds along to the state. In *Washington v. Confederated Tribes of the Colville Indian Reservation* (1980), the Court ruled that applying a state tax to cigarette sales to nonmembers of a tribe would not substantially threaten or interfere with tribal commerce. According to the Court, the federal government had demonstrated a concern for expanding economic opportunities for tribes, but it did not intend to provide them with a competitive advantage over nontribal businesses. In the same case, the Court affirmed the tribes' right to sell cigarettes, holding that tribal interests outweighed a state law that forbade transportation of nontaxed cigarettes across state lines.

Smoke shops remained controversial in the 1990s and the early twenty-first century. In 2000 the Clinton administration's grants of federal funds to tribes to build four smoke shops elicited outrage from antismoking activists. From 1996 to 2000, such grants had totaled \$4.2 million and faced congressional attempts to limit or eradicate them. Further, in 2004 New York lawmakers attempted to end the tax-free status of cigarette sales in response to pressure from local convenience store owners, only to back down following the outcries of Native communities. In response, local grocery chains initiated a series of lawsuits in 2006 to halt tax-free cigarette sales by Native Americans.

Additional controversy resulted from increasing Internet sales of cigarettes by tribes. In 2003 Rep. Mark Green, R-Wis., introduced the Internet Tobacco Sales Enforcement Act, which failed in Congress but spurred states like New York to ban sales of cigarettes across state lines that same year. Despite smoke shops' continuing financial success, their sales may continue to be controversial for some time.

See also *Taxation; Tobacco.*

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BIBLIOGRAPHY

- Duthu, N. Bruce. *American Indians and the Law*. New York: Viking, 2008.
- Jensen, Erik M. "Taxation and Doing Business in Indian Country." *Maine Law Review* 60 (2008): 1–95.
- Pevar, Stephen L. *The Rights of Indians and Tribes*. Carbondale, Ill.: Southern Illinois University Press, 2002.
- Washington v. Confederated Tribes of the Colville Indian Reservation*. 447 U.S. 134 (1980).

Snake War (1866–1868)

The Snake War most commonly refers to the two years of fighting that started in 1866 between the U.S. Army and two bands of Northern Paiute Indians—the Yashukins and Walpapis—who lived in southeastern Oregon and southwestern Idaho and were collectively and commonly referred to as the “Snake Indians.”

Chief Paulina of the Walpapis led raids and attacks on miners in the early 1860s, which volunteer militias failed to halt. After the Civil War, the U.S. Army attempted to stop the raids but had little success. In August 1865 the army forced Chief Paulina to sign a treaty (ratified in 1866) to settle on the recently created Klamath reservation in southwestern Oregon. However, with little food on the reservation over the ensuing winter, Chief Paulina and his people left to begin their raids again.

The U.S. Army’s continued failures to subdue the Paiutes led to a public outcry that resulted in a command change. Gen. George Crook, who had studied Indian tactics, took over the campaign in 1866 and promptly waged the Snake War with a cavalry unit, an infantry unit, and several Shoshone scouts. Over the next two years, the army initiated dozens of skirmishes in relentless pursuit of the Paiutes. By 1868 the Paiutes had lost more than three hundred men killed and more than two hundred captured. Due to these losses and the constant skirmishing, on July 1, 1868, a group of eight hundred Indians marched to Fort Harney to speak with General Crook and end the war. Afterward, the majority of the Paiutes returned to their reservation, although some decided to settle near the fort. In addition, a small number of “Snakes” continued fighting: some by joining Bannocks and Cayuses in the Bannock War (1878) against the United States, and others by serving the U.S. Army as scouts and auxiliaries.

See also *Army, United States (1784–1890); Bannock War (1878); United States–Indian Wars (1848–1891).*

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BIBLIOGRAPHY

- Axelrod, Alan. *Chronicle of the Indian Wars: From Colonial Times to Wounded Knee*. New York: Prentice Hall General Reference, 1993.
- Michno, Gregory. *The Deadliest Indian War in the West: The Snake Conflict, 1864–1868*. Caldwell, Idaho: Caxton Press, 2007.
- Wooster, Robert. *The Military and United States Indian Policy 1865–1903*. New Haven, Conn.: Yale University Press, 1988.

Society of American Indians (SAI)

The Society of American Indians (SAI), founded in 1911, was a pan-Indian organization dedicated to applying progressive-era ideals of reform to the situation of American Indians. Although the organization stated its purpose in terms of a general program of uplift and improvement in the lives of Indian people, it worked particularly on the effort to gain birthright citizenship and voting rights for Indians. Although many Indian reform organizations already existed by 1911, their membership was largely or entirely white; the SAI, however, reserved full membership solely for Indians, allowing whites to participate in their organization only as associate members.

The SAI leadership actively solicited educated, professional Indians to join the organization and especially to lead it, on the grounds that these individuals could best represent Indian concerns to the general public and could contribute most to the formation of Indian policy. The organization held annual meetings in various U.S. cities between 1911 and 1924 and published its own journal for seven of those years. Largely through the efforts of Arthur C. Parker (Seneca), editor of the Society’s journal, the SAI lobbied Congress and the Office of Indian Affairs (OIA) on behalf of all Indians, sometimes in concert with white-run reform organizations such as the Indian Rights Association. Internal disagreements about such matters as the relationship of the Society to the OIA eventually led to declining memberships and the dissolution of the organization after its 1924 meeting. Among the active members of the SAI were Gertrude Bonnin, Charles Eastman, Sherman Coolidge, Carlos Montezuma, and John Oskison.

See also *Bonnin, Gertrude; Bureau of Indian Affairs; Eastman, Charles; Indian Rights Association; Montezuma, Carlos.*

Lucy Maddox

BIBLIOGRAPHY

- Maddox, Lucy. *Citizen Indians: Native American Intellectuals, Race, and Reform*. Ithaca, N.Y.: Cornell University Press, 2006.

Sohappy, David

The determination of David Sohappy (1925–1991) to fish in accordance with his religion and Indian fishing treaty rights, despite state and tribal restrictions, helped secure the fishing rights of American Indian tribes.

Sohappy was born on the Yakama reservation and spent much of his life on the Columbia River, fishing in keeping

with the Washat religion. After being arrested for violating state fishing regulations, Sohappy and thirteen other Indians filed *Sohappy v. Smith* in 1968 to prohibit the states of Washington and Oregon from regulating fishing rights that tribes had secured in the 1855 Yakama Treaty. The case was joined with the similar case of *U.S. v. Oregon*, and Judge Robert Belloni decided the tribes had a right to a “fair and equitable share” of the Columbia River fishery and the states could not interfere with the Indians’ right to fish except for reasonable conservation purposes.

In 1974 Judge George Boldt ruled in *United States v. Washington* that the treaties between the United States and several tribes in the Pacific Northwest in 1855 entitled tribes to 50 percent of the harvestable fish and the right to manage the salmon resource and habitat on equal footing with the states.

These rulings, however, did not protect Sohappy and other River Indians from harassment by state officials or disagreements with their tribal governments who accused them of depleting salmon runs. Over the next few years, Sohappy and other River Indians who fished at Cook’s Landing on the Columbia River continued to take salmon in violation of Yakama tribal conservation laws. In 1981 a joint federal-state sting operation titled “Salmonscam” charged Sohappy, his son, and nineteen other River Indians for selling salmon under the authority of a tribal license that only gave them the right to fish for ceremonial purposes. Federal prosecutors applied the Lacey Act (prohibiting the taking or selling of protected plants and animals), which recently elevated illegal fishing to a felony. To deter other River Indians from violating conservation laws, the court convicted the Sohappys and three other Yakamas to five-year federal prison terms for illegally selling over three hundred salmon. Sohappy’s health declined while in prison, and he died in a nursing home in 1991.

See also *Fishing, Hunting, and Gathering Rights; Religious Freedom; Salmon; U.S. Supreme Court and Indian Policy, 1966–1977.*

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BIBLIOGRAPHY

- Conford, Michal, and Michele Zaccheo. *River People: Behind the Case of David Sohappy* (DVD). New York: Filmmakers Library, 1990.
- Dills, Barbara, and Paulette D’Auteuil-Robideau. *In Defense of Che Wana: Fishing Rights on the Columbia River*. Portland, Ore.: Columbia River Defense Project/Youth Project, 1987.
- Ulrich, Roberta. *Empty Nets: Indians, Dams, and the Columbia River*. 2nd ed. Corvallis: Oregon State University Press, 2007.

South Carolina, Indian Policy of

Native Americans with historic roots in what is now the state of South Carolina include the Cherokees, Creeks, Catawbans, Edistos, Pee Dees, Chicoras, Waccamaw-Siouans, Santees, and Yamassees. The colony of South Carolina, which separated from North Carolina in either 1692 or 1712 (the official date is disputed), attempted a series of policies to regulate trade and maintain order with its Native neighbors.

Early Indian traders exchanged pelts, typically deerskins, for European goods. In 1680 the Lords Proprietors who founded the colony established an Indian Affairs Commission to resolve disputes between whites and Indians. After dissolving the first commission, the government created a Board of Indian Commissioners in 1707 to regulate trade and enforce fair trade practices. The board had little success. Unscrupulous traders overextended credit to tribes such as the Yamassees with the hope of forcing land concessions from them when they could not pay their bills. In response to a now depleted deer population, the Yamassees began raiding Florida tribes in search of slaves to trade to Carolina merchants. The Yamassee trade debts continued to increase, eventually leading to at least two years’ labor from every adult male Yamassee.

In response to these abusive trade practices as well as increasing white encroachment, the Yamassees attacked the English on Good Friday 1715. This was soon followed by a second attack that resulted in the deaths of about one hundred colonists near Charlestown. Sporadic battles continued into the early summer. Though the Yamassees gradually began to withdraw, the colonists feared that they were facing a war of much wider scope, in particular fearing that a Cherokee alliance with the Yamassees would tip the scale in the Indians’ favor. As a result of the Yamassee War, the South Carolina government in 1716 assumed a direct monopoly over trade with the Indians, replacing private traders with government agents who were required to follow official guidelines.

The Cherokees initially experienced little direct interaction with the English. Until the war of 1715, most Carolina inland trade was routed to the west overland across the Upper Creek Path, approaching Cherokee territory only along a spur off the main track. The Cherokee population, however, had already felt the deleterious effects of European contact, being reduced by about half, from approximately thirty-two thousand in 1685 to roughly twelve thousand in 1715, by European-introduced disease.

The weight attached to Cherokee power by the English colonists in South Carolina grew, largely as a result of second-hand reports from the French and other traders. A massacre of Creeks by the Cherokees in 1715 pushed the Carolinians to form an alliance with the Cherokees. To white Carolinians, the Cherokees' promise to take hostile action against the Creeks appeared providential. The Cherokees, however, paid a high price for this decision. Conflict between the two tribes would endure for the next thirty years. The Cherokees later noted the failure of the English to fulfill their basic obligation of fighting as allies alongside the Cherokees against the Creeks. The progressive toll of disease and inter-tribal warfare led to a decline in the Cherokee population, to around eight thousand by the early 1750s.

The continuing Cherokee-Creek conflict offered advantages to South Carolina's settlers. Carolina governor William Boone echoed earlier arguments against attempts by Carolina to weld alliances between tribes, a policy that many believed had brought on the Yamassee War. These Carolinians wished to see the Creeks and Cherokees simply wipe each other out. Other Carolinians were more focused on trade.

During the decades of the 1720s through the 1740s, official contact between the colony and tribal mountain towns became sporadic. Intercultural politics had for the most part been overshadowed by the ebb and flow of trade. Tensions between whites and Native Americans resulted in war in 1760 when Cherokees, led by Oconostota, fought the Carolinians over unfair trade practices and violent attacks by whites upon Cherokees. The Cherokees raided settlements and captured a British fort but were defeated after two years of fighting by a British scorched-earth policy. The peace treaty cost the Cherokees much of their eastern land, and they never fully recovered their prominence.

Catawbas also lived in South Carolina. Like other Indians, they were severely depopulated by European diseases. Trade with Europeans also damaged relations between the Catawbas and other Indians, as the former hunted ever further afield to acquire pelts to trade for British goods. To maintain trade relations with the colonists, the Catawbas took the European side in a 1711–1713 war with the Tuscaroras. By 1715, however, Catawbas began to rebel against unfair trade practices by the British as well as forced labor and slave raids. They joined with the Yamassees in the Yamassee War and lost considerable power in the subsequent Indian defeat. Nearly exterminated by smallpox, the

Catawbas dropped from a pre-contact population of about six thousand to just five hundred by 1750.

After the American Revolutionary War (1775–1783), control over Indian affairs passed to the U.S. government. The Cherokees were treated with respect because of their size and multi-state presence, but the smaller nations became wards of the state. In the Treaty of Nations Ford in 1840, the Catawbas ceded their reservation to South Carolina, an act that violated the federal prohibition against states acquiring Indian land. In 1980 the tribe launched a federal lawsuit to regain possession of the lands surrendered in the treaty. In 1986 the U.S. Supreme Court ruled in *South Carolina v. Catawba Indian Tribe* that the statute of limitations had expired on the Catawbas' claim. The tribe continued to pursue litigation, prompting Congress to pass the Catawba Land Claims Settlement Act of 1993. The act provided the Catawbas a multi-million dollar cash settlement in exchange for its rights to the disputed territory.

In 2000 the South Carolina Indian Affairs Commission was established to lobby the state on behalf of Indian interests.

See also *American Revolutionary War (1775–1783)*; *Great Britain, Indian Policy of*; *Land Claims Settlement Acts*; *Oconostota*; *U.S. Supreme Court and Indian Policy, 1978–* .

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BIBLIOGRAPHY

- Hatley, Tom. *The Dividing Paths: Cherokees and South Carolinians Through the Era of Revolution*. New York: Oxford University Press, 1993.
- Merrell, James H. *The Indians' New World: Catawbas and Their Neighbors from the Era of Contact through Removal*. New York: Norton, 1991.
- Milling, Chapman J. *Red Carolinians*. Columbia: University of South Carolina Press, 1969.
- Reid, John Philip. *A Better Kind of Hatchet: Law, Trade, and Diplomacy in the Cherokee Nation During the Early Years of European Contact*. University Park: Pennsylvania State University Press, 1976.

Sovereign Immunity

Sovereign immunity is a legal doctrine that states that a sovereign, or government, cannot be sued unless the sovereign consents to be sued. U.S. courts have affirmed that sovereign immunity extends to tribal governments.

The doctrine of sovereign immunity emerged over the course of hundreds of years from English common law and is embodied in the maxim "The king can do no wrong." The sovereign, literally a king or a queen, was considered immune from suit for two primary reasons. First, the divine

right to rule passed from God to the sovereign, making the sovereign answerable only to God; an institution such as a court, because of its creation by humans, could not compel a sovereign to act. Second, the sovereign was the authority that created the courts, so a court could not question its own source of delegated authority.

After the Revolutionary War, the United States had continued to abide by many of the principles established in English common law, including sovereign immunity. Alexander Hamilton, a Founder and the first U.S. secretary of the Treasury, wrote in *The Federalist* No. 81, “It is inherent in the nature of sovereignty not to be amenable to the suit of an individual without its consent.” John Marshall, chief justice of the United States from 1801 to 1835, noted in *Cohens v. Virginia* (1821), “The universally received opinion is, that no suit can be commenced or prosecuted against the United States.” Sovereign immunity has been a facet of American law from the beginning of the republic.

Sovereign Immunity and Tribal Nations

A tribal nation is one of several forms of governments within the U.S. system that possess a type of sovereign immunity. The federal government possesses the purest form of sovereign immunity and cannot be sued without its consent. (It should be noted, however, that the federal government often consents to be sued.) States possess a more limited form of immunity—state sovereign immunity—pursuant to the Eleventh Amendment of the U.S. Constitution. States cannot invoke the doctrine of sovereign immunity to prevent suits by the federal government or by other states, but they can do so to protect against suits from tribal nations and individual parties. Tribal nations also have a limited version of sovereign immunity. They cannot invoke the doctrine to prevent suits initiated by the federal government, but they can invoke tribal sovereign immunity against states, other tribes, and private parties. In addition, arms of the tribal nation, such as tribally owned businesses, are protected by sovereign immunity, as are tribal councils. Federally recognized tribal nations possess sovereign immunity, as do unrecognized tribes in a few limited instances. Some commentators argue that tribal sovereign immunity is too expansive, particularly in comparison to state sovereign immunity. Others contend that immunity from suit under law is a vital aspect of tribal sovereignty.

Tribal sovereign immunity can be waived in two ways: through an act of Congress or through a voluntary waiver by a tribal nation. If Congress chooses to waive tribal sov-

erign immunity, it must do so expressly. Federal courts generally will not find that Congress has implicitly waived tribal sovereign immunity. In recent years, however, the Supreme Court has grown more skeptical of the logic behind tribal sovereign immunity and has expressed more of a willingness to find that a tribal nation has voluntarily waived its immunity.

The doctrine of sovereign immunity is often criticized as being inherently unfair and as violating the American spirit by not allowing citizens—the ultimate source of authority—to seek a remedy in court against the government that represents them. Those who defend sovereign immunity usually do so on three grounds: it maintains a system of checks and balances by preventing the courts from unduly interfering with the legislative branch; the government is the source of a citizen’s rights, so it is illogical and impractical for a citizen to be able to sue the source of her or his rights; and governments, particularly smaller ones, could be economically ruined if constantly forced to defend themselves in court and to pay judgments. Many of the same arguments, pro and con, are applicable to tribal sovereign immunity. Tribal sovereign immunity is in addition criticized for being a creation of the Western legal tradition that has no basis or justification in the Native worldview.

There are several sound policy reasons for waiving sovereign immunity. These include fostering a feeling of fairness among a citizenry, providing another check on governmental authority, and encouraging private citizens and enterprises to do business with a government by offering an opportunity to have contractual disputes or tort claims decided by a court. Such reasons have become increasingly applicable to tribal nations as they develop more internal structures and play a larger role in the political and economic life of the United States. Increasing numbers of tribal nations are waiving tribal sovereign immunity in limited circumstances to promote business partnerships for the tribal government and create economic growth on the reservation. To promote economic development and to respond to the criticism created by sovereign immunity, some tribal nations are also setting up corporations or other subordinate entities that are not immune from suits. On various occasions, the federal government has, without tribal consent, waived tribal sovereign immunity through congressional statutes.

To overcome the hurdle of sovereign immunity, some plaintiffs sue government officials—whether they be federal, state, or tribal officials—in their individual capacity. As a matter of law, government officials at all levels of govern-

ment in the U.S. system are protected by sovereign immunity in their professional capacity or when they act within the scope of their duties. The reasoning is that plaintiffs should not be able to compel a government to act through its agents when plaintiffs would not otherwise be able to compel a government to act because of sovereign immunity. Suits against federal and state officials are allowable, however, under two circumstances: if the official is acting outside of the scope of her or his authority as defined by statute or if the duties outlined in a statute are unconstitutional. The reasoning for allowing suits in these situations is that government officials who act outside of their statutorily defined duties or whose duties as defined by unconstitutional statutes are no longer acting in their professional capacity, but their individual capacity. If officials are acting in their individual capacity, they are acting outside of the law and cannot be protected by sovereign immunity. Tribal officials face a different situation, as tribal nations are not bound by the U.S. Constitution, and some tribal nations do not have their own constitutions. The general principle still applies, however, and tribal governmental officials generally can be sued in their individual capacity when they act outside of tribal or federal law.

Judicial Interpretations of the Doctrine

Over the past century, a number of legal cases have helped define the scope of tribal sovereign immunity and how the Supreme Court currently conceives of it. Although scholars have identified earlier cases that allude to tribal sovereign immunity, many sources, including the Court itself, point to *Turner v. United States and the Creek Nation of Indians* (1919) as the first true enunciation of a tribal nation's right to protect itself from a lawsuit. Clarence Turner, a member of the Creek nation, sought to sue his tribal nation when angry citizens tore down the fence he and his business associates had built for grazing purposes. In not allowing Turner to proceed, the Supreme Court held, "Like other governments, municipal as well as state, the Creek Nation was free from liability for injuries to persons or property due to mob violence or failure to keep the peace."

In *United States v. Fidelity & Guaranty Co.* (1940), the federal government brought suit against Fidelity & Guaranty on behalf of a group of tribal nations. Fidelity & Guaranty tried to bring its own suit, or counterclaim, against the tribal nations, but the Court would not allow the counterclaim to proceed. According to the Court, "These Indian Nations are exempt from suit without Congressional authorization."

Although *Turner* and *Fidelity & Guaranty* are cited as judicial recognition of tribal sovereign immunity, some scholars argue that the two cases are more about the Supreme Court protecting the United States as the trustee of tribal nations than about recognizing tribal sovereignty or tribal rights.

Santa Clara Pueblo v. Martinez (1978) involved Julia Martinez's attempt to sue her tribal nation, the Santa Clara Pueblo, under the Indian Civil Rights Act (ICRA) of 1968. The Pueblo had a citizenship statute that allowed the children of male tribal members who married outside of the tribal nation to enroll but did not allow enrollment for the children of female tribal members so situated. The ICRA waived tribal sovereign immunity in certain instances. In finding that Martinez's situation was not one such instance, the Supreme Court noted that congressional waivers of tribal sovereign immunity must be explicitly expressed.

Two relatively recent cases suggest that the Court has become more suspicious of or less deferential toward claims of tribal sovereign immunity than in the past. That said, however, it has not been willing on its own to deny or dramatically limit tribal sovereign immunity. The first case arose after the chairman of the Kiowa tribal business committee signed a promissory note in 1990 with a non-Native company on behalf of the tribal nation. The note stated, "Nothing in the Note subjects or limits the sovereign rights of the Kiowa Tribe of Oklahoma." Sometime thereafter, the tribal nation defaulted on the note, and the non-Native company tried to sue the tribal nation in state court. The tribal nation argued that it could not be sued because of its sovereign immunity.

Though ruling in favor of the Kiowa in *Kiowa Tribe of Oklahoma v. Manufacturing Technologies, Inc.* (1998), the Supreme Court nonetheless expressed reservations about the principle of tribal sovereign immunity. In the majority opinion, Justice Anthony M. Kennedy wrote, "Though the doctrine of tribal immunity is settled law and controls this case, we note that it developed almost by accident." Kennedy questioned the usefulness of *Turner*, referring to it as "but a slender reed for supporting the principle of tribal sovereign immunity." The Court also called into question the wisdom of maintaining tribal sovereign immunity. According to its opinion, "tribal immunity extends beyond what is needed to safeguard tribal self-governance." Although the Court declined to limit or alter tribal sovereign immunity, it used the opinion in *Kiowa* to invite Congress to rethink the scope of the doctrine.

C & L Enterprises, Inc. v. Citizen Band Potawatomi Indian Tribe of Oklahoma (2001) points to the Supreme Court's

increasing willingness to find waivers of tribal sovereign immunity. As in the *Kiowa* case, the Citizen Band Potawatomi sought to escape a contract by claiming tribal sovereign immunity. In this instance, however, the Supreme Court found that the tribal nation had waived its sovereign immunity because of an arbitration clause and a choice-of-law clause in the contract. Writing for the majority, Justice Ruth Bader Ginsburg stated, "In sum, the Tribe agreed, by express contract, to adhere to certain dispute resolution procedures."

See also *Santa Clara Pueblo v. Martinez*; *Sovereignty*; *U.S. Supreme Court and Indian Policy, 1871–1934*; *U.S. Supreme Court and Indian Policy, 1978–* .

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BIBLIOGRAPHY

- C & L Enterprises, Inc. v. Citizen Band Potawatomi Indian Tribe of Oklahoma*, 532 U.S. 411 (2001).
Cohens v. Virginia, 19 U.S. 264 (1821).
 Getches, David H., Charles F. Wilkinson, and Robert A. Williams, Jr. "Tribal Sovereign Immunity." In *Cases and Materials on Federal Indian Law*. 5th ed. St. Paul, Minn.: Thompson-West, 2004.
 Hamilton, Alexander. "No. 81." In *The Federalist Papers*, edited by Clinton Rossiter. New York: New American Library, 1961.
Kiowa Tribe of Oklahoma v. Manufacturing Technologies, Inc., 523 U.S. 751 (1998).
Oklahoma Tax Commission v. Citizen Band of Potawatomi Indian Tribe of Oklahoma, 498 U.S. 505 (1991).
Santa Clara Pueblo v. Martinez, 436 U.S. 49 (1978).
 Seielstad, Andrea M. "The Recognition and Evolution of Tribal Sovereign Immunity under Federal Law: Legal, Historical, and Normative Reflections on a Fundamental Aspect of American Indian Sovereignty." *Tulsa Law Review* 37 (Spring 2002): 661–776.
 Sisk, Gregory C. "A Primer on the Doctrine of Federal Sovereign Immunity." *Oklahoma Law Review* 58 (Fall 2005): 439–468.
 Struve, Catherine T. "Tribal Immunity and Tribal Courts." *Arizona State Law Journal* 36 (Spring 2004): 137–182.
Turner v. United States and the Creek Nation of Indians, 248 U.S. 354 (1919).
United States v. Fidelity & Guaranty Co., 309 U.S. 506 (1940).
 Wilkins, David E., and K. Tsianina Lomawaima. "'As It Was Intended': The Doctrine of Sovereign Immunity." In *Uneven Ground: American Indian Sovereignty and Federal Law*. Norman: University of Oklahoma Press, 2001.

Sovereignty

The preservation of sovereignty is a critical issue for tribal nations. A lively, scholarly debate has examined how "sovereignty" applies to American Indian nations and has raised important questions about the term's meanings, origins, application, and limitations.

The term *sovereignty*, European in origin, first came into use in the fourteenth century. Lakota lawyer and theologian

Vine Deloria Jr. argues that the concept of sovereignty is actually "an ancient idea" ("Self-Determination and the Concept of Sovereignty," 1979). He asserts, "Although originally a theological term, it was appropriated by European political thinkers in the centuries following the Reformation to characterize the person of the King as head of the state." Initially a theological concept delineating the divine right of kings to authority in the state, sovereignty underwent a transformation in sixteenth- and seventeenth-century European political thought. Although "sovereignty" continued to refer to an authority that was absolute, the rise of nation-states and governmental systems of divided powers reoriented concepts of it, giving birth to debates about the placement of power. Some theorists argued that sovereignty is a characteristic of a nation, while others placed power in the people, who collectively will authority to the state.

Sixteenth-century French political philosopher Jean Bodin invoked the notion of sovereignty as a way to establish political stability for the community of nation-states. He described sovereignty as "the most high, absolute, and perpetual power over the citizens and subjects in a Commonwealth" and believed that it should be fully and unconditionally invested in the head of state (*Six Bookes of a Commonweale*, 1962). Seventeenth-century English philosopher John Locke and eighteenth-century Geneva-born philosopher Jean-Jacques Rousseau also provided alternative understandings of sovereignty. Locke argued that sovereignty resides with the people of a nation who tend, for the sake of security and stability, to establish civil societies by developing governing structures in which political and legal authority is compartmentalized and conditionally invested. Rousseau concurred with Locke and argued adamantly that sovereignty resides with the people rather than with a divinely ordained head of state. For Rousseau, "Sovereignty, being nothing less than the exercise of the general will, can never be alienated" from the people, as he wrote in his 1762 work, *The Social Contract*. These European conceptions of sovereignty laid the foundation for its contemporary understandings in U.S. political thought and practice.

Despite sovereignty's European origins, it describes an idea intrinsic to all peoples and cultures. Contemporary understandings of sovereignty reference the unique trait of a nation's self-governance. Indeed, American Indian nations recognized and exercised their sovereign powers long before Europeans arrived in North America. They did so internally, through established governing systems for regulating social, political, and economic practices, and externally, by

entering into political alliances and agreements with other tribal nations. They continued these practices with European nations as a means of protecting their lands and resources while establishing social, economic, and political alliances.

Many scholars who have looked at Native understandings of sovereignty have found that the term is innately connected to every nation's lifeways. A Shawnee elder explained to Dagmar Thorpe, "It was understood that we recognized all peoples' right to their own existence. We recognized the right of each nation to live according to the instructions given to them [by the Creator]" ("Sovereignty: A State of Mind," 1998). For the Mohawks, sovereignty is represented by the word *Tewatatowie*, meaning, "we help ourselves" (Gerald R. Alfred, *Heeding the Voices of Our Ancestors*, 1995). Thus, although the word *sovereign* is European in origin, the ideas associated with this concept of self-government have a long-standing presence across tribal nations.

Many Meanings

Because sovereignty has relevance to a multitude of nations and states, definitions of it vary. Moreover, the meaning of sovereignty is not stagnant or fixed. Rather, the arenas in which it is expressed shape its conceptions, definitions, and applications. Its meaning is redefined continuously as historical interpretations and contemporary usage evolve. This point is critical to understanding the concept and its myriad applications in legal discourse and policy. Contemporary understandings of sovereignty often reference a state being autonomous, independent, self-governing, and free of external interference.

Viewing sovereignty as inherent is one of the variables common across definitions of the concept. According to this perspective, sovereignty cannot be granted to a people; rather, it derives from within the collective will of the community. It forms the foundation of a nation's right to self-determination and self-governance, free from the infringement of other nations. This emphasis on the right of a people to live in accordance with its own ways is prevalent across indigenous understandings. Political scientist David Wilkins asserts, "Tribal sovereignty is the intangible and dynamic cultural force inherent in a given indigenous community, empowering that body toward the sustaining and enhancement of political, economic, and cultural integrity" (*American Indian Politics*, 2002).

Sovereignty, in short, has come to be understood as an inherent dynamic presence of every nation. Many scholars recognize in indigenous perceptions of sovereignty a rela-

tionship between (national) identity and sovereignty. American Indian studies scholar Joanne Barker finds indigenous identity as "foundational to the structure, exercise, and character of sovereignty." She argues that indigenous "self-definitions inform the character of their unique political perspectives, agendas, and strategies for sovereignty" (*Sovereignty Matters*, 2005). Much of this contemporary scholarly dialogue on sovereignty has focused on particular elements of it, such as political and cultural sovereignty. A persistent theme in research on the political sovereignty of Indian nations is how it has been defined externally by U.S. Indian policy and law, which has acknowledged but also limited tribal sovereignty.

Political Sovereignty

Various European nations, and later the United States, formally recognized the sovereignty of tribal nations through hundreds of treaties with them. These nation-to-nation agreements acknowledged tribal nations as sovereigns (governing entities) and as proprietors (landowners); on another level, they recognized tribes as possessing a national character. These treaties secured peace and friendship, regulated trade, provided protection, and recognized boundaries and jurisdictions.

Although U.S. public and political perceptions of American Indian treaty-making shifted in the nineteenth century, the Founders of the fledgling United States often utilized their treaty relations with tribal nations to support the United States' own status as a nation as well as to justify territorial claims. Early U.S. debates surrounding the recognition and relationship between Indian tribes and the federal government shaped the founding documents of the nation. The U.S. Constitution explicitly references Indians in the commerce clause, which invests Congress with the authority to "regulate Commerce with foreign Nations, and among the several States, and with the Indian tribes." Some scholars argue that this reference to Indian tribes signals U.S. recognition of the sovereign status of American Indian nations.

Although a nation's sovereignty does not depend on its recognition from others, a nation's ability to *exercise* sovereign rights within the international arena may be directly affected by such recognition or lack of it. It is quite common for nations to refuse to "recognize" one another based on a nation's governmental structure, political agendas, domestic activities, or economic needs. A nation's sovereignty, however, is no less "real" should other nations refuse to recognize

it. The critical element is whether a nation's people see themselves as a nation, that is, as sharing a collective identity. Nonetheless, international recognition increases a nation's stature and ability to interact with other nations.

Although the United States has recognized the sovereignty of many, though not all, tribal nations, this recognition has been tenuous and ever shifting. A litany of court opinions and laws speak to the status of tribal nations. The federal government has at times chosen to recognize and support tribal sovereignty but at other times chosen to deny or circumscribe it, thus creating ambiguity in federal-Indian relations.

Chief Justice John C. Marshall made a notable attempt to delineate the United States' position on tribal sovereignty in the 1820s and 1830s in three Supreme Court cases—*Johnson v. M'Intosh* (1823), *Cherokee Nation v. Georgia* (1831), and *Worcester v. Georgia* (1832)—collectively called the Marshall Trilogy. In *Johnson v. M'Intosh*, the Court held that tribal powers had been circumscribed by the European discovery and settlement of North America. In *Cherokee Nation v. Georgia*, Marshall reduced tribes to a status of "domestic dependent nations," but in *Worcester v. Georgia* he recognized tribes as "distinct, independent, political communities." Marshall's seemingly irreconcilable positions on tribal sovereignty in these opinions have plagued tribal nations to the present day and have been used to support and to diminish tribal sovereignty.

Lawyer and scholar Felix S. Cohen, writing in the 1942 edition of the *Handbook of Federal Indian Law*, assessed Marshall's opinions in a manner that recognized the sovereignty of tribal nations. He wrote that "[f]rom the earliest years of the Republic the Indian tribes have been recognized as 'distinct, independent, political communities,' and, as such, qualified to exercise powers of self-government, not by virtue of any delegation of powers from the Federal Government, but rather by reason of their original tribal sovereignty." This affirmation of tribal sovereignty in the *Handbook* was critical in synthesizing more than a century and a half of federal Indian law and played a pivotal role in reinvigorating the original federal recognition and legal interpretation of the term. Cohen called tribal sovereignty "perhaps the most basic principle of all Indian law." Legal scholar Charles F. Wilkinson (1987) argues that Cohen's take on these pivotal Supreme Court decisions has attained a status comparable to a Court opinion, noting that it has been repeatedly cited by the courts. Although the courts have acknowledged the sovereign status of tribal nations, their

interpretation of how this sovereignty may be exercised reflects shifting perceptions of tribal status.

Cultural Sovereignty

No nation is completely autonomous; each faces limitations resulting from relative military power, political stature, economic agreements, and international treaties. The tribal nations have suffered from the unique experience of having their sovereign powers defined and limited by U.S. policy makers. To ameliorate these constraints, some Native scholars have looked beyond the external limitations placed on tribal sovereignty and instead focused on providing indigenous-centered perspectives of nationhood and sovereignty and preserving the cultural integrity of the ideas. In "Rethinking the Tribal Sovereignty Doctrine," legal scholars Wallace Coffey and Rebecca Tsosie argue, "By understanding the philosophical structure of native cultures, we can appreciate 'sovereignty' as a cultural as well as a political phenomenon. In many ways, political sovereignty for Native peoples has become an *external* phenomenon that posits the overriding sovereignty of the federal government and the centrality of American citizenship for Native peoples. Cultural sovereignty is an *internal* phenomenon: the 'heart and soul' of the Indian nation is located *within* Indian people, as communities and as individuals." In essence, some indigenous peoples—by looking to their own understandings and practices—are defining for themselves a vision of their own nationhood and sovereignty that is separate from the U.S. government's circumscriptions of tribes as "domestic dependent nations."

Sovereignty is deeply intertwined with a nation's sense of self. Vine Deloria Jr. articulated this sentiment in 1979 in "Self-Determination and the Concept of Sovereignty," finding that "[s]overeignty revolves about the manner in which traditions are developed, sustained, and transformed to confront new conditions." He asserts, "Sovereignty, in the final instance, can be said to consist more of continued cultural integrity than of political powers and to the degree that a nation loses its sense of cultural identity, to that degree it suffers a loss of sovereignty." Sovereignty, so understood, is deeply intertwined with a nation's values, ideals, and aspirations. Several scholars, including historian Amanda Cobb, have also recognized the relationship between national identity and sovereignty, noting that the emotional qualities of the term add another layer of complexity, making sovereignty so powerful and yet so difficult to define. In this sense, sovereignty is seen as a process, a narrative of a people's continuance.

Other scholars, including Taiaiake Alfred, have encouraged Native nations to discontinue using and applying the term *sovereignty* instead of attempting to redefine it. Alfred asserts that the state—namely, Canada and the United States—has taken various positions on tribal sovereignty, from outright denial to a theoretical acceptance that still renders tribal nation rights contingent upon the framework of federal Indian law. Therefore, he questions whether the term is appropriate for Native nations. He wonders why few people have questioned how “a European term and idea” became so entrenched and imperative to Native peoples’ political agenda.

Although some aspects of sovereignty are indeed tied to Western notions of power, many scholars recognize that this term brings with it political power and therefore argue against the outright rejection of it. Instead, given that *sovereignty* has such powerful and important legal meaning in federal Indian relations and within the international community, tribes can utilize the term and its rhetorical power as a crucial instrument to strengthen their political autonomy.

While scholars have put forward a bevy of definitions of sovereignty and have explored its application across Indian Country, Dagmar Thorpe perhaps best summarizes the current state for tribal nations that seek to employ this concept. She suggests, in “Sovereignty: A State of Mind,” that “[s]overeignty must be defined as the continuation of our ways of life within the present context of the contemporary world. As Native nations, we must provide an environment within our communities that sustains and nurtures our lives as we were instructed and, at the same time, develops the skills and knowledge for survival in the contemporary world.”

See also Cherokee Nation v. Georgia (1831); Johnson v. M’Intosh (1823); Marshall, John; *Sovereign Immunity; Tribal Acknowledgment (Federal); Tribal Acknowledgment (State)*; Worcester v. Georgia (1832).

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BIBLIOGRAPHY

- Alfred, Taiaiake. “Sovereignty.” In *A Companion to American Indian History*, edited by Philip J. Deloria and Neal Salisbury, 460–474. Malden, Mass.: Blackwell Publishers, 2002.
- Alfred, Gerald R. *Heeding the Voices of Our Ancestors: Kahnawake Mohawk Politics and the Rise of Native Nationalism*. New York: Oxford University Press, 1995.
- Barker, Joanne. “For Whom Sovereignty Matters.” In *Sovereignty Matters: Locations of Contestation and Possibility in Indigenous Struggles for Self-Determination, Contemporary Indigenous Issues*, edited by Joanne Barker. Lincoln: University of Nebraska Press, 2005.

- Bodin, Jean. *The Six Bookes of a Commonweale: A Facsimile Reprint of the English Translation of 1606 Corrected and Supplemented in the Light of a New Comparison with the French and Latin Texts*, translated by Richard Knolles; edited by Kenneth Douglas McRae. Cambridge, Mass.: Harvard University Press, 1962.
- Cobb, Amanda. “Understanding Tribal Sovereignty: Definitions, Conceptualizations, and Interpretations.” Joint publication of the *Journal of Indigenous Studies*, no. 1 (Fall 2005/Spring 2006), and *American Studies* 46 (Fall/Winter 2005).
- Coffey, Wallace, and Rebecca Tsosie. “Rethinking the Tribal Sovereignty Doctrine: Cultural Sovereignty and the Collective Future of Indian Nations.” *Stanford Law and Policy Review* 12, no. 2 (Spring 2001): 191–210.
- Cohen, Felix. *Handbook of Federal Indian Law*. Washington, D.C.: Government Printing Office, 1942.
- Deloria, Vine, Jr. “Self-Determination and the Concept of Sovereignty.” In *Economic Development in American Indian Reservations*, edited by Roxanne Dunbar Ortiz. Albuquerque: University of New Mexico Native American Studies, 1979.
- Krasner, Stephen. “Sovereignty.” *Foreign Policy*, no. 122 (January–February 2001): 20–29.
- Lyons, Scott. “Rhetorical Sovereignty: What Do American Indians Want from Writing?” *College Composition and Communication* 51, no. 3 (February 2000): 447–468.
- Prucha, Francis Paul. *Indian Policy in the United States: Historical Essays*. Lincoln: University of Nebraska Press, 1981.
- Rousseau, Jean-Jacques. *The Social Contract*. 1762. Reprint, New York: E. P. Dutton, 1913.
- Thorpe, Dagmar. “Sovereignty, A State of Mind: A Thawika Citizen’s Viewpoint.” *American Indian Law Review* 23 (1998/1999): 481–485.
- Wilkins, David. *American Indian Politics and the American Political System*. Lanham, Md.: Rowman and Littlefield Publishers, 2002.
- . *American Indian Sovereignty and the U.S. Supreme Court: The Masking of Justice*. Austin: University of Texas Press, 1997.
- . “The Manipulations of Indigenous Status: The Federal Government as Shape-Shifters.” *Stanford Law and Policy Review* 12, no. 2 (Spring 2001): 223–235.
- . *Uneven Ground: American Indian Sovereignty and Federal Law*. Norman: University of Oklahoma Press, 2001.
- Wilkinson, Charles. *American Indians, Time, and the Law*. New Haven, Conn.: Yale University Press, 1987.
- Wunder, John. *Native Americans and the Law: Native American Sovereignty*. New York: Garland Publishing, 1996.

Spain, Indian Policy of

By the end of the sixteenth century, the Spanish empire claimed dominion over Florida and most of South and Central America, the Caribbean, and what is now the contiguous United States west of the Mississippi River. Many of these territories were already inhabited (Central and South America more densely so than North America), which compelled Spain to form policies regarding the status and treatment of indigenous inhabitants. Although the policies were uniform at the imperial level, they were often enforced unevenly and at the discretion of local officials. The consid-

erable variation throughout New Spain persisted even after the Bourbons introduced centralizing reforms in the eighteenth century.

Colonial Beginnings and Doctrines

The Spanish conquistadors arrived in New Spain seeking gold and silver. They believed that Spanish rights to the continent derived from the papal bull *Inter Caetera* of 1493, in which Pope Alexander VI assigned to Spain title to lands it discovered 100 leagues west of the Azore Islands and required the Spanish crown to convert the indigenous inhabitants of the lands discovered to Christianity. Upon contact with an Indian community, Spanish conquistadors read the *Requirimiento* (requirement) to the Natives, informing them that they must convert to Christianity and submit to the Spanish crown or suffer destruction. Despite the duty to proselytize imposed by the Catholic Church, the Spanish conquest of the Americas was marked by violence bordering on brutality; it involved forced labor, the exploitation of indigenous peoples, and the expropriation and despoliation of Native land and resources.

In the early sixteenth century, the Spanish government was divided over disturbing reports by Catholic missionaries of conquistadors' brutal treatment of the indigenous populations in the Americas. In a famous debate at Valladolid in 1550, Juan Ginés Sepúlveda, a prominent Spanish legal scholar, and Bartolomé de las Casas, a Dominican priest and missionary, argued about whether the Native peoples of the Americas possessed natural rights and whether the use of force was justified to incorporate the Natives into the Spanish empire. The horrors of the maltreatment of Indians described by de las Casas and others was seized upon by Spain's colonial competitors and became known as the *leyenda negra*, the Black Legend, which maintained that Spaniards were more cruel in their treatment of Native Americans than any other colonial power. (In the late 1780s, Henry Knox, President George Washington's secretary of war, argued that the United States should adopt an honorable policy toward the Indian tribes so its actions would not be compared by posterity to the Spanish Black Legend.) In the aftermath of the Valladolid debate, the Spanish king decided that while Spanish claims were superior to indigenous peoples' inherent rights, the crown did have a responsibility for the welfare of the Indians.

The colonial Indian policy that emerged over time created the category of "the Indian" by incorporating many diverse peoples under one term. Indians were considered to

be subjects of the crown, with the same rights and duties as Spaniards, at least in principle. But while the crown wanted to elevate and convert the continent's original inhabitants, it also wanted to control Spain's colonial subjects, land, and indigenous labor. As a result, the crown was frequently forced to compromise, and its Indian policy was enforced unevenly and subject to regional variation, especially during the reign of the Hapsburg dynasty.

Labor Policies and Economic Considerations

Once the Natives were subjugated, the Spanish put them to work. The early part of the Spanish colonial period was marked by conquistadors seeking to conquer new communities of Natives; enslaved Indians were divided among the conquistadors and forced to work in mines and fields. The conquistadors developed mechanisms, such as the *encomienda* and *repartimiento*, to exploit the labor of indigenous peoples without technically enslaving them. The ad-hoc labor system of the early conquest period was legalized in 1503 and developed into the more formal *encomienda*, in which the Spanish government assigned individual Spaniards (*encomenderos*) the right to the labor of a contingent of Indians. In return for the Indians' work, the *encomendero* was required to pay them, protect them, and lead them to conversion to the Catholic faith. Because the Indians were not legally owned by the *encomenderos*, they were considered to be free—and were referred to as "free vassals of the crown"—thus theoretically differentiating this system from slavery. Yet despite the classification of the Indians as free, *encomenderos* bought and sold Indians, forced them to work, and treated them very much like slaves. The system quickly spread throughout Spanish America, as the crown assigned *encomienda* rights, which could be passed down through family lines, to wealthy colonists and government officials.

In 1512 the Spanish government issued the Laws of Burgos, the first systematic code to govern the conduct of Spanish settlers in their relations with the indigenous inhabitants in the Americas. The laws adopted the *encomienda* as the formal policy mechanism for regulating Indian labor in the Americas—a system specifically designed for the extraction of mineral and agricultural wealth, a pragmatic marriage of economic exploitation and religious principle—but attempted to apply some humane restrictions. The laws prohibited the mistreatment of Indians, set out terms for their employment and compensation, and established means to convert them to Christianity, such as the construction of churches in Indian communities and requirements that they

learn the Catholic sacraments. In 1537, Pope Paul III issued the *Sublimis Deus* papal bull, which prohibited the enslavement of indigenous peoples.

The *repartimiento*, a similar means to exploit Native labor also in use at the time, was a measure intended to counteract labor shortages. Under the *repartimiento* system, Indian villages had to perform certain duties; for example, village workers could be temporarily assigned to Spanish colonists and cities to complete public works projects. The official end of the *repartimiento* came in 1632, though its last vestiges, like those of the *encomienda*, were not abolished until Mexican independence in 1821. In addition to the *repartimiento* and the *encomienda*, various forms of debt labor existed. As wages tended to be low, many Indians found themselves drawn into the system of debt labor and unable to escape.

The *encomienda* and *repartimiento* systems were more difficult to impose in Spanish claims in North America, where the Native population was much smaller, particularly after diseases of European origin wiped out great portions of the indigenous people. Moreover, the *encomienda* had been abandoned by the time Spain occupied Texas and California. Consequently, only some of the Native peoples fell under the *encomienda* in the area within the current contiguous United States.

Colonial Attitudes toward Indians and Land

At first the Spaniards were preoccupied with titles to labor, like the *encomienda* or the *repartimiento*, rather than with formal titles to land; in contrast, Spain's colonial competitor, Great Britain, was preoccupied with land. The Spaniards, who referred to themselves as *gente de razón* (people of reason), considered themselves obligated to convert the Natives to Christianity and entitled to indigenous labor. The Spaniards contrasted themselves, the *república de españoles*, with the Indians, the *república de indios*, and established a stratified colonial society in which three main groups—whites, *castas* or *mestizos* (mixed ethnicity), and Indians—all had specific rights and privileges.

Originally, Spanish colonists were attracted to central Mexico with its zones of dense settlement and readily available labor supply. The land question initially was of minor importance because the Indian population declined due to disease, overwork, and malnutrition, opening up large stretches of Indian land for Spanish acquisition. As a result, during the early years of colonization, Spaniards focused on labor acquisition and control. Partially enacted in response to the ruthless exploitation of such opportunities, in 1542–1543



A cross is raised by missionaries during the founding of Mission San Diego in 1769. Spain hoped to use missions and missionaries to integrate Indians into colonial society.

the New Laws (*Leyes Nuevas*) forbade further allocation of Indian lands to colonists. They also abolished the inheritance of *encomiendas* and stipulated that the rights reverted to the crown upon the death of the *encomendero*. While these laws were intended to safeguard the power of the crown, they also benefited the Indians, for instance, by regulating the labor that they had to pay in tributes. However, much of the legislation proved impossible to enforce and was revoked in 1545. Thus, the respite from Spanish subjugation was both limited in scope and short-lived.

The Spanish crown additionally hoped to integrate the Indians into colonial society by means of missions. Missionaries were expected not only to convert the Indians to Christianity but also to familiarize them with Spanish culture. In return, the missionaries could make use of Indian

labor. Indian communities temporarily benefited from the sheltering afforded to them by the missionaries and the exemption from the payment of certain tributes. Over time, however, it became increasingly difficult for the missionary orders to protect the Indians and their land. As arable land became scarce in New Spain, colonists attempted to acquire indigenous land, often through illegal means.

Even though the crown, following *Inter Caetera* (1493) and *Sublimis Deus* (1537), considered vacant lands as its own under law, it did recognize the indigenous right to possess lands. Under the theory of preemption, only the crown, by right of discovery and through the consent of Indians, was entitled to extinguish the Indian title. However, in practice this principle was rarely adhered to and indigenous land loss was common during the Spanish colonial era. Then, at the beginning of the seventeenth century, the crown offered colonists the chance to acquire, by means of payments, legal titles to land they already held de facto. This so-called *composición de tierras* effectively reduced Indian landholdings and legally deprived Natives of lands that previously had been taken from them.

Changes and the End of Colonial Rule

Indigenous communities often felt the need to protect their lands against colonial intrusions. Much Indian resistance focused on retaining or repossessing land, as well as opposing forced labor or taxes. In 1680, for example, the Pueblos revolted against Spanish rule in New Mexico. When quelling such unrest, Spanish officials tended to resort to brute force only if their attempts at negotiation failed, for the destruction of an indigenous community meant the annihilation of a valuable labor force.

In the early eighteenth century Bourbon rule replaced that of the Hapsburgs in Spain. The Bourbon government strove for more centralized imperial control, and some of these changes affected Indian policy. The centralizing reforms eventually contributed to widespread discontent among colonists, which led to calls for independence from Spain. The mistreatment of the Indians was included among the grievances cited by independence-seeking Creole elites against the king of Spain.

Spanish policy toward Indians during this period was ostensibly aimed at integrating indigenous peoples into the Spanish-dominated society the government was keen to construct. However, while some Spaniards believed this to be a beneficial and achievable goal, many envisaged the continuation of the familiar two *repúblicas*, with Spaniards outranking Indians. In practice, it seems to have been more

important to colonial elites to integrate Natives into the colonial economic system than to incorporate them into Spanish society or the Catholic faith.

In the nineteenth century, a declining Spanish empire surrendered control over its North American territories (including portions of the present United States). Native people living in the old Spanish colonies thus often found themselves under the authority of new colonizers; in 1819, for example, Spain surrendered Florida to the United States in the Adams-Onís Treaty. The United States also acquired Spanish lands in the West. In 1810 the people of Mexico declared their independence from Spain and then engaged in a long war to secure their separation. Then, at the end of the U.S.-Mexican War (1846–1848), Mexico surrendered to the United States territory that today comprises much of the American Southwest, including the states of Arizona, California, Nevada, New Mexico, Utah, and parts of Colorado, Nebraska, Oklahoma, and Wyoming. The many tribes living in that territory thus found themselves subject to three world powers in the space of a few short decades.

See also *Assimilation and Acculturation*; *Guadalupe Hidalgo (1848)*; *Treaty of*; *Mexico, Indian Policy of*; *Missions and Missionaries*; *Preemption*; *Slavery: Enslavement of Indians*; *U.S.-Mexican War (1846–1848)*.

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BIBLIOGRAPHY

- Brooks, James F. *Captives and Cousins. Slavery, Kinship, and Community in the Southwest Borderlands*. Chapel Hill: University of North Carolina Press, 2002.
- Edmunds, R. David. "Native Americans and the United States, Canada, and Mexico." In *A Companion to American Indian History*, edited by Philip J. Deloria and Neal Salisbury, 397–421. Oxford, England: Blackwell, 2002.
- Floris Margadant, Guillermo. "Official Mexican Attitudes toward the Indians: An Historical Essay." *Tulane Law Review* 54 (1980): 964–986.
- Gibson, Charles. *The Aztecs under Spanish Rule*. Stanford, Calif.: Stanford University Press, 1964.
- . "Indian Societies Under Spanish Rule." In *Colonial Latin America*, 381–419. Vol. 2 of *The Cambridge History of Latin America*, edited by Leslie Bethell. New York: Cambridge University Press, 1987.
- Hanke, Lewis. *The First Social Experiments in America: Study in the Development of Spanish Indian Policy in the Sixteenth Century*. Cambridge, Mass.: Harvard University Press, 1935.
- Pagden, Anthony. *Lords of All the World: Ideologies of Empire in Spain, Britain and France c. 1500–c. 1800*. New Haven, Conn.: Yale University Press, 1995.
- Seed, Patricia. *American Pentimento: The Invention of Indians and the Pursuit of Riches*. Minneapolis: University of Minnesota Press, 2001.
- Spicer, Edward Holland, ed. *Cycles of Conquest: The Impact of Spain, Mexico, and the United States on the Indians of the Southwest, 1533–1960*. Tucson: University of Arizona Press, 1962.

Vázquez Castillo, María Teresa. *Land Privatization in Mexico: Urbanization, Formation of Regions, and Globalization in Ejidos*. New York: Routledge, 2004.

Weber, David J. *Bárbaros: Spaniards and Their Savages in the Age of Enlightenment*. New Haven, Conn.: Yale University Press, 2005.

Spirit Lake Uprising (1857)

The Spirit Lake Uprising (1857) was an attack initiated by a small band of Wahpekutes (a Dakota Sioux band) against American settlers that took place on March 8–9, 1857, in northwest Iowa. A militant named Inkpaduta (“Scarlet Point”) (c. 1815–c. 1882) led the uprising. Inkpaduta and his followers (about twelve to fourteen men and their families) had been outcasts since Inkpaduta’s father, Wamdesapa, had killed Tasagi, the principal chief of the Wahpekutes. After Wamdesapa’s death, Inkpaduta became leader of the Wahpekute dissident band. In 1849 the band ambushed and killed Wamundeyakapi, the Wahpekute principal chief, and seventeen of his men. In the years that followed, Inkpaduta’s followers were nomadic hunters who occasionally had to beg and steal to survive. After his brother was killed by a white bootlegger, Inkpaduta and his band began raiding white settlements.

The winter of 1856–1857 was particularly bitter, and Inkpaduta and his followers often became desperate for food. During that winter they killed a dog belonging to a local settler. The settlement responded swiftly, forcing the disarmament of Inkpaduta’s people. Infuriated, the renegades obtained new arms and attacked the closest settlement. Perhaps as many as forty-seven settlers were killed, and four women were captured during the attack. Despite efforts to catch Inkpaduta by both the U.S. government and the Mdewakanton Sioux under Little Crow, he was never brought to justice. However, two of the four captives were ultimately rescued. Inkpaduta reportedly moved west, supposedly fought at the Battle of the Little Bighorn, and then moved north to Canada where he died.

The Spirit Lake Uprising showed the Indians of the area that the U.S. government was not always successful in bringing “wrongdoers” to justice, thus making it appear less invincible than before. More significant, the episode greatly increased tensions and distrust between settlers and Indians, a mutual distrust that would last for years and promote an environment in the surrounding states wherein conflicts such as the United States–Dakota War of 1862 were more likely to break out.

See also *Little Crow; United States–Dakota War of 1862; United States–Indian Wars (1848–1891)*.

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BIBLIOGRAPHY

Beck, Paul N. *Inkpaduata: Dakota Leader*. Norman: University of Oklahoma Press, 2008.

Meyer, Roy M. *History of the Santee Sioux: United States Indian Policy on Trial*. Rev. ed. Lincoln: University of Nebraska Press, 1993.

Spotted Tail (Sinte Gleska)

Known to his people as *Sinte Gleska*, Spotted Tail (c. 1823–1881) was born into the Brule or *Sicangu* band of the Lakotas during the winter of 1823–1824 along the White River in South Dakota. As a young man, Spotted Tail was known for bravery in conflicts against the Pawnees, eventually attaining the honored position of shirt wearer (war leader). He was present at the Grattan Fight (August 18, 1854) and participated in the killing of several mail carriers in retaliation for the death of Chief Conquering Bear. In the Battle of Blue Water Creek (September 3, 1855) in western Nebraska, Spotted Tail was wounded and his family taken prisoner. To avoid further hostilities, Spotted Tail and several other Lakotas surrendered at Fort Laramie.

While being held at Fort Leavenworth, Spotted Tail determined that continued military resistance was futile; from that point on, he counseled negotiation and accommodation. Spotted Tail signed the Fort Laramie Treaty of 1868 that created the Great Sioux reservation. He also made several visits to Washington, D.C., most notably in 1875 to negotiate the sale of the sacred Black Hills. Although he remained committed to Lakota culture, Spotted Tail supported American-style education for youth, including instruction in English. He sent more than thirty Rosebud Lakota children, including four sons and several grandchildren, to the Carlisle Indian boarding school in Pennsylvania.

In a dispute over tribal leadership, Crow Dog shot and killed Spotted Tail on August 5, 1881. Though Crow Dog surrendered to authorities, he was released following the U.S. Supreme Court’s ruling in *Ex Parte Crow Dog* (1883). Today, Spotted Tail’s name lives on in the form of Sinte Gleska College on the Rosebud reservation.

See also *Black Hills; Carlisle Indian School; Ex Parte Crow Dog (1883); Fort Laramie (1868), Treaty of; Grattan Fight*.

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BIBLIOGRAPHY

- Hyde, George. *Spotted Tails Folk: A History of the Brule Sioux*. Norman: University of Oklahoma Press, 1961.
- Ostler, Jeffrey. *The Plains Sioux and U.S. Colonialism from Lewis and Clark to Wounded Knee*. New York: Cambridge University Press, 2004.

St. Clair, Arthur

Arthur St. Clair (1732–1816) was the Northwest Territory's first governor (1788–1799) and the U.S. government's territorial Indian agent.

St. Clair was born in Scotland, joined the British army in 1757, and fought in the French and Indian War. After the war, St. Clair began to farm and work in the fur trade. He served on the Pennsylvania governing council, where he kept the colony neutral during Lord Dunmore's War. In 1775 he joined the American Continental Army; he crossed the Delaware with George Washington and fought at the battle of Trenton. He also commanded Fort Ticonderoga on Lake Champlain for a short time. After the American Revolution, he was elected to the Articles of Confederation Congress. In 1787 the Congress issued the Northwest Ordinance, and St. Clair was named as the first territorial governor, which gave him authority over Indian affairs in the area.

In January 1789, St. Clair presided over the treaties of Fort Harmar (which Josiah Harmar ordered to be built and is present-day Marietta, Ohio) with the Six Nations (Haudensaunees, Delawares, Ottawas, Chippewas, Potawatomis, and Wyandots). The treaty's dual purpose was to curtail the violence between Indians and American settlers that plagued the Ohio Valley and reaffirm the cession of the Northwest Territory made previously at the treaties of Fort Stanwix (1784), Fort McIntosh (1785), and the Great Miami (1786). The Shawnees and Miamis, with whom St. Clair most desired peace, boycotted the council because the federal government failed to recognize the Ohio River as the boundary between the United States and the Indians.

Because the Shawnees, Miamis, and their allies declined to make peace with the U.S. government, Secretary of War Henry Knox ordered St. Clair to send a military expedition to destroy their Maumee River strongholds. In the summer of 1790, St. Clair dispatched the ill-fated Josiah Harmar expedition to burn the Maumee River towns. After Indians annihilated Harmar's command in October, Knox then entrusted a similar mission to St. Clair. On November 4, 1791, confederated Indians led by Little Turtle from the Maumee towns slaughtered nearly half of St. Clair's army of

approximately 1,500 regulars and Kentucky militia. St. Clair thereafter resigned his commission. Peace came to the Northwest Territory temporarily after General Anthony Wayne's decisive victory over the Shawnees and Miamis at the Battle of Fallen Timbers in 1794 and the subsequent 1795 Treaty of Greenville.

After his resignation, St. Clair returned to politics and resumed his role as territorial governor. President Thomas Jefferson removed St. Clair, a Federalist, from office in 1802. St. Clair retired, speculated in land and lost the fortune he had built during his life, and died in poverty in 1818.

See also *American Revolutionary War (1775–1783)*; *Fallen Timbers (1794)*, *Battle of*; *Fort Harmar (1789)*, *Treaty of*; *Greenville (1795)*, *Treaty of*; *Knox, Henry*; *Little Turtle*; *Lord Dunmore's War (1774)*; *Northwest Ordinance*; *Wayne, Anthony*.

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BIBLIOGRAPHY

- Hurt, R. Douglas. *The Ohio Frontier: Crucible of the Old Northwest, 1720–1830*. Bloomington: Indiana University Press, 1996.
- Wilson, Frazer Ells. *Arthur St. Clair, Rugged Ruler of the Old Northwest: An Epic of the American Frontier*. Richmond, Va.: Garrett and Massie, 1944.

Standing Bear

Standing Bear (c. 1829–1908) was born in present-day Nebraska and rose to be chief of the Ponca tribe. The tribe's land had been secured through a treaty with the United States government, but the treaty was abrogated (abolished) in 1877 to create the Great Sioux reservation. Standing Bear and his people were forcibly removed to Indian Territory (present-day Oklahoma), where they suffered from disease and lack of food. Some scholars estimate that one-third of the Poncas died as a consequence of their relocation.

In March 1879 Standing Bear's son died, and Standing Bear began a journey with approximately thirty Poncas back to his homeland to bury him. Standing Bear, whose daughter had also recently died, was arrested by military scouts and held at Fort Omaha, where the sympathetic regional military commander, General George Crook, encouraged media coverage of the story. The public was drawn to Standing Bear's tactic of nonviolent confrontation in the face of the overwhelming force of the federal government.

The story caught the attention of two attorneys, John Webster and Andrew Poppleton. The attorneys filed a writ of *habeas corpus*, which federal officials said should be rejected as Native Americans were not considered persons under

the law. In the case, *Standing Bear v. Crook* (1879), Judge Elmer Dundy disagreed, saying that Native Americans were full persons with rights under the law. As a result, Standing Bear was released from captivity and allowed to return home to bury his son. Standing Bear's situation had effectively drawn national attention to the plight of Native Americans. He went on a tour of the East, accompanied by Omaha activists Susette and Francis LaFlesche. In 1880 Congress granted to Standing Bear and the small band that had accompanied him a permanent settlement in Nebraska, where he died at the age of eighty. Over five hundred other Poncas were forced to remain in Indian Territory, however, although they were given compensation and better lands.

See also *LaFlesche Family; Ponca Removal*.

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BIBLIOGRAPHY

- Dando-Collins, Stephen. *Standing Bear Is a Person: The True Story of a Native American's Quest for Justice*. Cambridge, Mass.: Da Capo Press, 2004.
- Tibbles, Thomas Henry. *Standing Bear and the Ponca Chiefs*. Lincoln: University of Nebraska Press, 1995.

Standing Bear, Luther

Luther Standing Bear (1868–1939; Lakota) was born on land that became the Rosebud Sioux reservation. He was the son of a prominent Lakota leader—who also was known as Standing Bear—and as a youth he went by the name Plenty Kill (Ota K'te). His life story illustrates the dramatic changes experienced by Native people of his generation.

Plenty Kill was in the first class of students to attend the Carlisle Indian School in Pennsylvania when it opened in 1879. There, he was given the name Luther. He later returned to Rosebud, where he worked as an assistant teacher, storekeeper, and agency clerk. In 1898, now known as Standing Bear, he joined Buffalo Bill's Wild West Show as an interpreter and made at least two tours with the show, including one through Europe. Later, he appeared with the 101 Ranch Show in Oklahoma. He settled in California, became an actor in western movies, and gave public lectures that he hoped would help dispel whites' misconceptions about Indians.

Between 1828 and 1934 he published four books about Sioux history and culture that were at least partially autobiographical. While Standing Bear was not active in any of the Indian reform organizations of the time, he used his writing

to critique both the course of U.S. Indian policy and the continuing misrepresentation of Indians by white writers. In his third book, *Land of the Spotted Eagle* (1933), Standing Bear decried the damage done to Indian people by assimilationist attitudes and policies, most notably the enforced use of English in schools, the suppression of traditional ceremonies, the imposition of Christianity, and the general assumption that Indian people should imitate white ways.

See also *Assimilation and Acculturation; Carlisle Indian School; Film; Standing Bear*.

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BIBLIOGRAPHY

- Standing Bear, Luther. *Land of the Spotted Eagle*. Lincoln: University of Nebraska Press, 2006. Originally published 1933.
- . *My People, the Sioux*. New York: Houghton Mifflin, 1928.

State Treaties with Indian Tribes

According to federal law and policy, state governments are prohibited from entering into treaties with Indian nations. This prohibition dates back to the U.S. Constitution and the Non-Intercourse Act of 1790, which required federal approval for the acquisition of Indian lands.

Prior to the American Revolution and the ratification of the U.S. Constitution in 1789, treaties served as a primary form of diplomacy between the colonies and Indian tribes. Individual colonies openly negotiated with individual tribes or groups of Indian nations to maintain or expand territorial boundaries. Besides securing Indian lands, such treaties often contained provisions regarding the regulation of trade, terms of armistice and peace, and the definition of boundaries.

As a practical reality, colonies continued making treaties with Indian nations following the Revolution and the creation of the United States, although the newly formed federal government attempted to consolidate Indian affairs as a federal power to the exclusion of the states. Under the new Constitution, treaty making was designated as a federal matter; it was not a power to be exercised by the states, absent a federal delegation of such authority.

Efforts to strengthen the federal government's primacy over trade and commerce as well as to regulate alliances and maintain peace with Indian tribes resulted in the enactment of the Indian Non-Intercourse Act of 1790 (also known as the Trade and Intercourse Act), which specified that no sale of lands made by any Indians or tribal nations would be valid unless sanctioned by the United States. Land conveyances

from tribes to states procured by treaty or other means would be invalid. The law also prevented states from treating with Indian nations without permission of the federal government. Proponents of federal authority over Indian affairs believed that the United States needed consistency in its relations with the tribes in order to promote order and security. Nevertheless, some states disregarded the Non-Intercourse Act and negotiated their own treaties with Indian nations; these violations have resulted in modern-day claims filed against the states seeking to invalidate state-tribal treaties and the land transactions therein.

Some tribes that held lands in the eastern United States have contested the legality of state-negotiated treaties conducted after the passage of the Non-Intercourse Act. One such claim was brought by the Oneidas against the state of New York in 1970. The merits of the case rested on whether a 1795 treaty between the state and the tribe—a treaty that resulted in the cession of 100,000 acres by the tribe—was valid in light of the act's prohibitions. In *Oneida Indian Nation v. County of Oneida* (1974), the tribe prevailed in the Supreme Court on the grounds that it was unlawful for the state to enter into a treaty for the transfer of tribal lands. Further instances of claims or congressional acts addressing Indian nations' complaints of Non-Intercourse Act violations by states have come from the Mashpees (Massachusetts), Cayugas (New York), Catawbias (South Carolina), and Schaghticokes (Connecticut).

Today, many state and local governments regularly enter into government-to-government agreements with tribes. Instead of treaties, states and Indian nations negotiate cooperative agreements or compacts involving matters that concern both governments. Some of these agreements have federal approval, such as gaming compacts for revenue sharing under the Indian Gaming Regulatory Act of 1988. Others occur without the approval or involvement of the federal government.

See also *Gaming; Indian Gaming Regulatory Act (1988); Johnson-O'Malley Act (1934); States' Rights; Trade and Intercourse Acts; Treaties: Historical Overview; Treaty Abrogation.*

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BIBLIOGRAPHY

- Garrison, Tim Alan. *The Legal Ideology of Removal: The Southern Judiciary and the Sovereignty of Native American Nations*. Athens: University of Georgia Press, 2002.
- Locklear, Arlinda. "The Role of Jurisdiction in the Quest for Sovereignty: Morality and Justice 200 Years After the Fact." *New England Law Review* 37 (Spring 2003): 539–601.

Oneida Indian Nation v. County of Oneida, 414 U.S. 661 (1974).

Prucha, Frances Paul. *American Indian Treaties: The History of a Political Anomaly*. Berkeley: University of California Press, 1994.

———. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.

States' Rights

Federal Indian law has often played out as a struggle over the relative powers of the tribes, the states, and the federal government. Article IX of the Articles of Confederation, ratified in 1781, provided that the confederation government would have exclusive authority to manage Indian affairs. But the rule's proviso—that confederal authority remained subject to state legislative authority—undermined the intent of the provision. Some states, including North Carolina, New York, and Georgia, entered into treaties and other agreements with Indian tribes, disregarding Article IX. The framers of the Constitution corrected the problem by drafting the Indian Commerce Clause, which left no residual authority for the states.

Congress enacted the Trade and Intercourse Acts of 1790 and 1793, which prohibited states from dealing with Indian tribes. Contrary to this law, in the early nineteenth century southern states attempted to exert control over Indian relations. In the late 1820s, for instance, Georgia attempted to extend its jurisdiction over the Cherokee Nation. In *Worcester v. Georgia* (1832), the Supreme Court held that state law has "no force" in Indian Country. Despite this decision, states in the South and West continued to exert jurisdiction over Indian relations in the nineteenth and twentieth centuries.

Federal Indian law and policy features a goal of "measured separatism" (Charles F. Wilkinson, *American Indians, Time, and the Law*, 1987), whereby Indian treaties and federal law maintain a distance between Indian tribes and the states. In *United States v. Kagama* (1886), the Supreme Court referred to the states and individual Americans as the "deadliest enemies" of Indian tribes and held that the federal government had a duty to serve as a guardian to the tribes in order to prevent their extinction at the hands of the states. Federal law and policy is replete with exceptions, such as the allotment era and other forms of assimilation, but the general rule was to keep the states out of the arena of federal Indian law.

Beginning in the late twentieth century, however, the Supreme Court began to break down the barrier, favoring states' rights over tribal interests in almost every case. In *McClanahan v. Arizona State Tax Commission* (1973), the

Court asserted that the “platonic notion” of tribal sovereignty could not prevent states from exercising some civil and criminal jurisdiction and some taxation power in Indian Country. In *Cotton Petroleum Corp. v. New Mexico* (1989), the Court held that a state may tax all activities of non-Indians, even on reservation lands. This rule created a dual taxation scheme: states can tax on-reservation activities of non-Indians even where a tribe is taxing the same activities, effectively preventing Indian tribes from taxing non-Indians. In *Seminole Tribe of Florida v. Florida* (1996), the Supreme Court held that Congress cannot use its Indian Commerce Clause power to abrogate state sovereign immunity; this circumscribed the enforcement provisions of the Indian Gaming Regulatory Act of 1988 to some extent. While the Court has not completely dismantled the tribal-state separation, some observers are concerned by Justice Antonin Scalia’s statement in *Nevada v. Hicks* (2001) that “ordinarily, it is now clear, an Indian reservation is considered part of a state.”

Even as tribal interests are losing ground in the courts to states’ rights, states and tribes are beginning to negotiate and reach political solutions. Many tribes have entered into tax agreements, law enforcement cooperative arrangements, and other forms of contracts with states.

See also *Articles of Confederation; Constitution, U.S.; Indian Commerce Clause; Seminole Tribe of Florida v. Florida* (1996); *Trade and Intercourse Acts; United States v. Kagama* (1886); *Worcester v. Georgia* (1832).

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BIBLIOGRAPHY

- Cotton Petroleum Corp. v. New Mexico*, 490 U.S. 163 (1989).
 Fletcher, Matthew L. M. “Reviving Local Tribal Control in Indian Country.” *Federal Lawyer* 43 (March/April 2006): 38–44.
 Garrison, Tim Alan. *The Legal Ideology of Removal: The Southern Judiciary and the Sovereignty of Native American Tribes*. Athens: University of Georgia Press, 2001.
 Haring, Sidney L. *Crow Dog’s Case: American Indian Sovereignty, Tribal Law, and United States Law in the Nineteenth Century*. New York: Cambridge University Press, 1994.
Seminole Tribe of Florida v. Florida, 517 U.S. 44 (1996).
United States v. Kagama, 118 U.S. 375 (1886).
 Wilkinson, Charles F. *American Indians, Time, and the Law: Native Societies in a Modern Constitutional Democracy*. New Haven, Conn.: Yale University Press, 1987.
Worcester v. Georgia, 31 U.S. 515 (1832).

Stevens, Isaac Ingalls

As Washington’s first territorial governor and superintendent of Indian affairs, Isaac Ingalls Stevens (1818–1862) oversaw

the negotiation of treaties and the early implementation of the reservation policy in the Pacific Northwest.

Born in Andover, Massachusetts, Stevens graduated from West Point and fought in the Mexican War (1846–1847) before joining the U.S. Coast and Geodetic Survey as an engineer. An ambitious man imbued with the spirit of Manifest Destiny, Stevens lobbied fiercely and successfully for the chance to lead the 1853 survey of the northern transcontinental railroad route—even after the Franklin Pierce administration appointed him governor and Indian superintendent of the newly created Washington Territory.

Stevens arrived in Olympia eager to open the region for further white settlement. In 1854–1855 he conducted a whirlwind diplomatic tour of the territory from Puget Sound to western Montana, concluding ten treaties with dozens of distinct indigenous groups. Two councils with tribes failed to produce agreements when the Indian representatives refused his uncompromising terms, but he generally excelled at using a mixture of persuasion and coercion to overwhelm tribal opposition. His hasty approach, combined with an often brusque manner and ethnocentric perspective, angered many Indian leaders and contributed to the outbreak of hostilities on both sides of the Cascade Mountains in 1855.

Stevens left office to serve in the Union Army during the Civil War and was killed at the Battle of Chantilly in 1862. His treaties had an enduring legacy, particularly in the form of reserved fishing rights that later sparked controversy in the Northwest.

See also *Fishing, Hunting, and Gathering Rights; Stevens-Palmer Treaties* (1853–1856); *Yakama War* (1855–1856).

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BIBLIOGRAPHY

- Richards, Kent D. *Isaac I. Stevens: Young Man in a Hurry*. 1979. Reprint, Pullman: Washington State University Press, 1993.
 Stevens, Hazard. *The Life of Isaac Ingalls Stevens*. 1900. Reprint, Whitefish, Mont.: Kessinger Publishing, 2005.
 Trafzer, Clifford E., ed. *Indians, Superintendents, and Councils: Northwestern Indian Policy, 1850–1855*. Lanham, Md.: University Press of America, 1986.

Stevens-Palmer Treaties (1853–1856)

Signed between 1853 and 1856, the Stevens-Palmer treaties ceded the bulk of Indian land in the Pacific Northwest to the United States and established reservations for the region’s

diverse indigenous population. The treaties take their collective name from the federal commissioners who secured them, Washington territorial governor and superintendent of Indian affairs Isaac I. Stevens and Oregon territorial superintendent of Indian affairs Gen. Joel Palmer.

Using a template provided by Commissioner of Indian Affairs George W. Manypenny, Stevens drafted ten similar treaties encompassing more than 65 million acres. He began among the peoples of Puget Sound, negotiating the Treaty of Medicine Creek (December 26, 1854), the Treaty of Point Elliott (January 22, 1855), the Treaty of Point No Point (January 26, 1855), and the Treaty of Neah Bay (January 31, 1855) in just five weeks. Stevens then moved east of the Cascade Mountains and held a grand council at Walla Walla in conjunction with Palmer, producing the Treaty with the Walla Wallas, Cayuses, and Umatillas (June 9, 1855), the Treaty with the Yakamas (June 9, 1855), and the Treaty with the Nez Percés (June 11, 1855). Next, Stevens proceeded into present-day Idaho and Montana to secure the Treaty of Hell Gate (July 16, 1855) and the Treaty with the Blackfeet (October 17, 1855), while Palmer headed back west to negotiate the Treaty of Middle Oregon (June 25, 1855) and the Treaty with the Mollalas (December 21, 1855). Stevens ended his diplomatic tour with a second visit to the Quinaltuls and Quileutes of the Olympic Peninsula, who finally agreed to a treaty on January 25, 1856.

Except for the Blackfeet Treaty, which ceded no territory, all of the Stevens treaties reserved for tribes off-reservation rights to hunt, fish, and gather in traditional locations. Palmer allowed such provisions in the Walla Walla and Middle Oregon treaties, but not in his earlier agreements with the indigenous peoples of western Oregon, where there was abundant agricultural land and a growing population of white miners and homesteaders. For the same reason, Palmer established only two small reservations to accommodate the diverse groups identified in his treaties as the Rogue River Indians (September 10, 1853; November 11, 1854; November 15, 1854); the Cow Creek Band of Umpqua (September 19, 1853); the Chasta, Sconton, and Grave Creek Bands of Umpqua (November 18, 1854); the Umpquas and Kalapuyas (November 29, 1854); and the Confederated Bands of Kalapuya (January 22, 1855).

The Native representatives who signed the Stevens–Palmer agreements proved to be skilled diplomats and tough negotiators, despite inadequate interpreters at the councils and federal threats of force if they failed to comply. At the Walla Walla meeting, strong opposition to the government’s

original plan compelled Stevens and Palmer to enlarge the boundaries of the Nez Perce reservation and create a separate home for the restive Cayuses, Umatillas, and Walla Wallas. (A few months earlier, Native objections to the terms of the Chehalis River Treaty had so outraged Stevens that he stormed out of the council, leaving many Indians in southwestern Washington without reservations or federal recognition.) When Indian leaders did consent to terms, in most cases they did so only after securing their rights to access off-reservation resources and with the understanding that the treaties would not go into effect until Congress had ratified them. Native people who never received notice of the talks or who pointedly refused to attend often reacted with outrage when they discovered that others had sold their land without their consent.

Stevens and Palmer hoped that treaties would prevent widespread violence in the Northwest. By implementing the reservation policy so swiftly and arbitrarily, however, they helped spark a series of military clashes in the Rogue River Valley, the Puget Sound area, and the Columbia Plateau between late 1855 and 1858. Congress ratified the last of the Stevens–Palmer treaties in 1859. Although the treaties have been broken frequently and litigated extensively over the ensuing 150 years, they remain important guarantors of tribal sovereignty. Today, many tribes hold annual “Treaty Day” commemorations to honor their ancestors for signing the agreements that saved pieces of their homelands and reserved off-reservation rights in perpetuity.

See also *Fishing, Hunting, and Gathering Rights*; Palmer, Joel; Salmon; Stevens, Isaac Ingalls.

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BIBLIOGRAPHY

- Harmon, Alexandra. *Indians in the Making: Ethnic Relations and Indian Identities around Puget Sound*. Berkeley: University of California Press, 1996.
- Joseph, Alvin M., Jr. *The Nez Perce Indians and the Opening of the Northwest*. New Haven, Conn.: Yale University Press, 1965.
- O'Donnell, Terence. *An Arrow in the Earth: General Joel Palmer and the Indians of Oregon*. Portland: Oregon Historical Society Press, 1991.
- Richards, Kent D. *Isaac I. Stevens: Young Man in a Hurry*. 1979. Reprint, Pullman: Washington State University Press, 1993.
- , ed. “The Isaac I. Stevens and Joel Palmer Treaties, 1855–2005.” Special issue, *Oregon Historical Quarterly* 106 (Fall 2005).
- Trafzer, Clifford E., ed. *Indians, Superintendents, and Councils: Northwestern Indian Policy, 1850–1855*. Lanham, Md.: University Press of America, 1986.

Stuart, John

John Stuart (1718–1779) was the British superintendent of Indian affairs for the Southern Department from 1762 through his death in 1779. Because he usually defended the interests of the Indians, Stuart was generally treated with suspicion by the colonists. He was regarded as a Loyalist during the Revolution.

Stuart was born in Scotland. In 1748 he settled in Charles Town, South Carolina, where he was a merchant and a participant in the province's trade with the Cherokees. As a captain in the South Carolina militia during the Seven Years' War, Stuart oversaw construction of Fort Loudon, located near the Cherokee villages in the upper Tennessee River Valley. During the Anglo-Cherokee War (1759–1761), Cherokees besieged Fort Loudon for nine months in 1760. Protected by Cherokee leader Attakullakulla, Stuart was one of the few who survived the attack.

After Stuart acceded to the post of Indian affairs superintendent in 1762, he managed the commercial and diplomatic relationships between the various southern Indian nations and the British settlers in the seaboard colonies. Like many officials, Stuart believed that peace could be maintained by limiting contact between Indian and settler populations, licensing fewer traders, restricting the expansion of white settlements, and nurturing diplomatic relations through the distribution of gifts. This policy was embodied by the Proclamation of 1763 and treaties he signed with the major southeastern tribes in Augusta, Georgia, that same year.

Both Stuart and the northern superintendent, Sir William Johnson, endorsed the policy changes promulgated at the end of the Seven Years' War, but the colonial governments generally did not. Many colonies resented losing control of the Indian trade and, more important, the ability to negotiate land transfers with neighboring Indian nations. Parliament changed policy in 1768, stripping the Indian superintendents of much of their power and their budgets, and Stuart's influence waned. In 1773, despite Stuart's objections, the colony of Georgia concluded a land cession treaty with the Cherokee and Creek Indians. During the revolutionary crisis in 1775–1776 Stuart attempted to reassert power by urging Creek and Cherokee leaders to negotiate only with him. South Carolinians and Georgians thus viewed Stuart as part of a perceived British conspiracy to oppress them. With the eruption of full-scale warfare in the American Revolution by the end of 1776, British general Sir William Howe gave Stuart a free hand to regulate trade with

the southeastern Indians and to forestall any of the southern nations from supporting the revolutionaries. Stuart enacted such policies and pursued them until his death at Pensacola, Florida, on March 21, 1779.

See also *American Revolutionary War (1775–1783)*; *Attakullakulla (Little Carpenter)*; *Great Britain, Indian Policy of*; *Proclamation of 1763*.

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BIBLIOGRAPHY

- Alden, John R. *John Stuart and the Southern Colonial Frontier: A Study of Indian Relations, War, Trade, and Land Problems in the Southern Wilderness, 1754–1775*. Ann Arbor: University of Michigan Press, 1994.
- Snapp, J. Russell. *John Stuart and the Struggle for Empire on the Southern Frontier*. Baton Rouge: Louisiana State University Press, 1996.

Stumbling Bear (Setimkia)

Stumbling Bear (c. 1832–1903)—or *Setimkia*, translated as “charging bear”—was a Kiowa warrior, chief, and peace-maker. He was a cousin of the noted leader Kicking Bird (1835–1875). In the 1850s Stumbling Bear first received renown as a warrior for his raids on the Pawnees, Navajos, and Sacs and Foxes.

During the American Civil War, Stumbling Bear led raids against the U.S. military. The Battle of Adobe Walls (1864) pitted his Kiowa forces against the troops of American explorer Christopher “Kit” Carson. Stumbling Bear's multiple clashes on the Great Plains with both Native American and U.S. forces prompted him to realize that the Kiowas did not have enough military power to overcome their enemies. He therefore began to argue for reconciliation with the United States. Stumbling Bear was an important Kiowa representative at the signing of the Medicine Lodge Treaty (1867) that assigned reservations to his people and other Plains tribes.

In 1872 Stumbling Bear joined a Native peace delegation to Washington, D.C. During the Red River War (1874), the Kiowas and Comanches fought against the United States, but Stumbling Bear and Kicking Bird championed peace. In 1872 the U.S. government built a house for Stumbling Bear on the Kiowa reservation in recognition of his efforts to promote peace. He remained there until his death in 1903.

See also *Carson, Christopher “Kit”*; *Kicking Bird*; *Medicine Lodge Creek (1867), Treaty of*; *Red River War (1874–1875)*.

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BIBLIOGRAPHY

- Rand, Jacki Thompson. *Kiowa Humanity and the Invasion of the State*. Lincoln: University of Nebraska Press, 2008.
- St. Germain, Jill. *Indian Treaty Making Policy in the United States and Canada, 1867–1877*. Lincoln: University of Nebraska Press, 2001.
- Sturtevant Nye, Wilbur. *Bad Medicine and Good: Tales of the Kiowas*. Norman: University of Oklahoma Press, 1997.

Sweden, Indian Policy of

In 1638 Sweden claimed territory in North America on the Delaware River. In an attempt to remain competitive with the other European powers, the Swedes organized a colonial effort to capitalize on the tobacco and fur trade. Peter Minuit, leader of New Sweden's first venture, the New Sweden Company, understood the importance of establishing legitimate territorial possession of the desired lands in the Delaware Valley. With instructions from the Swedish crown, he endeavored to purchase lands from the Indians. The company's directors in Sweden knew that it was imperative to acquire deeds to Indian lands to defend their claims against their Dutch and British competitors. The initial orders they gave Minuit recognized the Lenapes (also known as the Delawares) and the Susquehannocks as rightful owners of the lands they wanted to acquire legally. The transactions, which marked the founding of New Sweden, involved the Indian "sale" of lands to the Swedes and the issuing of a "certificate or declaration" recognizing the Swedish claim and, as a result, the collective sovereignty of the Lenapes in the Delaware Valley. The Lenapes and Susquehannocks later contested the first land exchanges with the Swedes, arguing that the Swedes had claimed much more land than either tribe originally intended. The Swedes produced no treaties to counter this accusation.

Sweden's practice of recognizing the land rights of indigenous sovereign peoples began when the Swedish crown identified the Saami people as the rightful owners of *Sameätnam*, an arctic territory that expands across Norway, Sweden, Finland, and Russia. The economic, cultural, and political relationship that the Swedish crown developed with the Saami in the sixteenth and seventeenth centuries established some precedent for the Swedes' response to the Lenapes and their claims to sovereignty in the Delaware Valley. In addition to establishing peaceful relations with the Indians, the official Swedish colonial policy was intended to launch a program of civilizing the indigenous people in North America similar to the one used with the Saami. The first component of the policy was to incorporate the indigenous people economically

through trade; the second was to achieve the religious conversion of the indigenous population. Swedish leaders in North America, however, made little effort to implement a consistent policy of Indian conversion.

The Swedish enterprise was a Dutch-Swedish venture that focused initially on the tobacco trade and later the fur trade. These prospects did not prove to be fruitful because the Swedes failed to establish a successful outpost. The settlers depended heavily on the Lenapes' food supplies, and the directors in Sweden failed to send supplies or military support. The unpredictability with which the Swedes acquired trade goods from their unreliable European supporters left the Lenapes dissatisfied with their Swedish trade alliances. The number of colonists dwindled to approximately one hundred, with many deserting the Swedish colony for the more successful British and Dutch colonies to the south and north. In 1655 Peter Stuyvesant, director-general of the Dutch colony of New Netherland, seized control of Swedish Fort Christina, ending the Swedish colonial enterprise in North America. The Dutch in turn relinquished this territory to the British in 1664.

See also *Netherlands, Indian Policy of*.

Dawn G. Riggs

BIBLIOGRAPHY

- Dahlgren, Stellan, and Hans Norman. *The Rise and Fall of New Sweden: Governor Johan Risingh's Journal, 1654–1655, in Its Historical Context*. Stockholm, Sweden: Almqvist & Wiksell International, 1988.
- Gunlog, Maria Fur. "Cultural Confrontation on Two Fronts: Swedes Meet Lenapes and Saamis in the Seventeenth Century." PhD diss., University of Oklahoma, 1993.
- Riggs, Dawn Marsh. "Hiding in Plain Sight: Hannah Freeman, a Lenape Woman in William Penn's Peaceable Kingdom." PhD diss., University of California, Riverside, 2003.
- Weslager, C. A. *New Sweden on the Delaware, 1638–1655*. Wilmington, Del.: Middle Atlantic Press, 1988.

Swimmer, Ross O.

Ross Owen Swimmer (1943–) practiced law in Oklahoma City from 1967 to 1972 and served as president of the First National Bank of Tahlequah from 1974 to 1984. A member of the Cherokee Nation, Swimmer served as its counsel from 1972 to 1974 and was elected principal chief in 1975. From 1983 until 1984, Swimmer was also co-chair of the Presidential Commission on Indian Reservation Economies.

In 1985 President Ronald Reagan appointed Swimmer assistant secretary of Indian affairs with the Bureau of Indian

Affairs (BIA), a post he held until 1989. Swimmer was a controversial appointment as assistant secretary. Less than a year before his selection he had called for the elimination of the BIA. During his term he was accused of favoring Peabody Coal Company in its dispute with the Navajo Nation.

From 1995 until 2001 Swimmer was president of the Cherokee Group L.L.C., which represents Indian clients working on government projects at state and federal levels and promotes business projects on Indian land. He was appointed director of the Office of Indian Trust Transition in 2001 and was one of the editors of *The Swimmer Manuscript: Cherokee Sacred Formulas and Medicinal Prescriptions*, published in 2005 by Noksi Press in conjunction with the Smithsonian Institution.

Swimmer currently serves as the special trustee for American Indians for the Department of the Interior. He is responsible for reforming trust accounting standards at the bureau in the wake of the *Cobell* trust fund litigation.

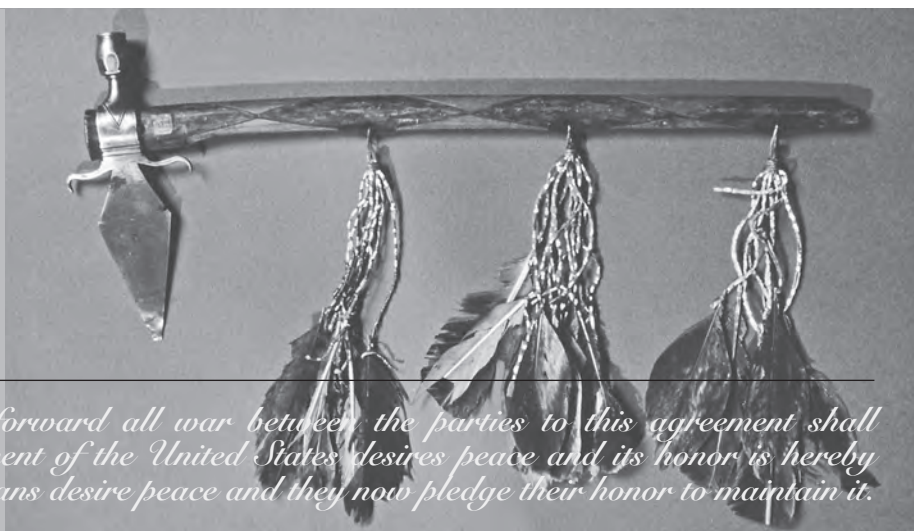
See also *Bureau of Indian Affairs*; *Cobell Litigation*; *Mankiller, Wilma*.

Justin Corfield

BIBLIOGRAPHY

Cook, Samuel R. "Ronald Reagan's Indian Policy in Retrospect: Economic Crisis and Political Irony." *Policy Studies Journal* 24:1 (March 1996): 11–26.

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Article 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they now pledge their honor to maintain it.

Taliaferro, Lawrence

Lawrence Taliaferro (1794–1871) served as Indian agent for almost twenty years, demonstrating a unique concern for the interests and welfare of the Native people for whom he was responsible.

Taliaferro enlisted in the U.S. Army during the War of 1812 (1812–1814) and served until 1818. In 1820 President James Monroe appointed Taliaferro agent to the Dakotas and Anishinabes (Ojibwes) at Fort Snelling, Minnesota. The two tribes were often enemies, and Taliaferro worked diligently to promote peace and cooperation between them. He also helped to secure promised annuities, sheltered them from disreputable traders, and negotiated treaties on their behalf.

In 1823 Taliaferro built a council house west of the fort where he mediated disputes among the two groups. To further strengthen relations between them, he led a delegation of Dakotas and Ojibwes to Washington, D.C., in 1824. The following year Taliaferro helped negotiate the 1825 Treaty at Prairie du Chien, in which representatives from a number of tribal groups agreed to stop fighting and to live within fixed boundaries. Although the council was considered successful, the treaty brought only temporary peace to the area.

While he supported U.S. government efforts to expand to the West, Taliaferro also worked to protect Native American rights and to uphold U.S. treaty obligations. On three occasions, in 1822, 1828, and 1829, he successfully challenged private sawmill operators' efforts to cut timber on Indian lands. He also protested the American Fur Company's distribution of alcohol to Indians and general mistreatment by its agents of Indian trading partners. In 1837, as pressure increased from whites to obtain valuable timber lands,

Taliaferro oversaw treaties with the Dakotas and Ojibwes that ceded their lands east of the Mississippi River. Taliaferro resigned as agent in 1839, returned to the military for several years, and retired to Pennsylvania where he lived until his death at age 77.

See also *Indian Agents*.

Virginia G. Jelatis

BIBLIOGRAPHY

- Babcock, Willoughby, Jr. "Major Lawrence Taliaferro, Indian Agent." *The Mississippi Valley Historical Review* 11, no. 3 (December 1924): 358–375.
- Hall, Steve. *Fort Snelling: Colossus of the Wilderness*. St. Paul: Minnesota Historical Society Press, 1987.

Talton v. Mayes (1896)

In *Talton v. Mayes* (163 U.S. 376, [1896]), the U.S. Supreme Court held that the U.S. Constitution does not restrict the activities of Indian tribal governments. The case arose when a Cherokee man, who was indicted by a Cherokee Nation grand jury of only five persons, was convicted of murder and sentenced to hang. The Cherokee law regarding the proper number of jurors in a Cherokee grand jury was ambiguous, but the Court held that the Fifth Amendment's due process clause did not apply to the Cherokee tribal government. The Court held that, by the express terms of the Constitution, the Bill of Rights applies only to the federal government. Because the Cherokee Nation was not present at the founding of the American republic and did not ratify the Constitution, the Court reasoned that the Bill of Rights could not be enforced against the tribe. The Court recog-

nized that Indian tribes predate the American government and tribal sovereignty derives from a separate, inherent source not contingent upon the Constitution.

Relying on *Talton*, lower federal courts held that Indian tribes could ban certain religious practices within their borders (*Native American Church v. Navajo Tribal Council*, 1959) and that nonmembers could not invoke the Fourteenth Amendment in challenging tribal taxes (*Barta v. Oglala Sioux Tribe*, 1958).

In 1968 Congress enacted the Indian Civil Rights Act, which purported to extend many of the individual rights contained in the Bill of Rights to Indian tribes.

See also *Indian Civil Rights Act (1968)*; *Sovereignty*; *U.S. Supreme Court and Indian Policy, 1871–1934*.

Matthew L. M. Fletcher

BIBLIOGRAPHY

- Barta v. Oglala Sioux Tribe of Pine Ridge Reservation of South Dakota*, 259 F.2d 553 (8th Cir. 1958).
- Carpenter, Kristen A. "Considering Individual Religious Freedoms under Tribal Constitutional Law." *Kansas Journal of Law and Public Policy* 14 (Spring 2005): 561–590.
- Laurence, Robert. "Federal Court Review of Tribal Activity under the Indian Civil Rights Act." *North Dakota Law Review* 61 (1992): 657–674.
- Native American Church of North America v. Navajo Tribal Council*, 272 F.2d 131 (10th Cir. 1959).

Taos Pueblo of Blue Lake

The area around Taos Blue Lake in New Mexico is held sacred by the Taos Pueblo Indians. In 1906 the U.S. government appropriated the area and incorporated it into Carson National Forest. In 1926 the Taos Pueblo Indians waived the compensation offer made by the U.S. government and instead sought the return of Blue Lake. They received neither the land nor the compensation. In 1933 the Senate Indian Affairs Committee recommended the Taos Indians be issued a permit to use Blue Lake for religious purposes, and in 1940 the permit was issued.

On August 13, 1951, Taos Indians filed a suit before the Indian Claims Commission, again seeking title to the land. The Indian Claims Commission affirmed in 1965 that the federal government unjustly took possession of the land. One year later, legislation to return Blue Lake to the Taos Indians failed to make it out of committee. Then, in 1968, House Bill 3306 was introduced to restore the sacred land to the Taos Indians. It passed the House of Representatives unanimously before dying in the Senate.

Undaunted, Indian political activists sought new alliances. John C. Reyna (Pueblo), Seferino Martinez (Taos Pueblo governor), and Paul Bernal (Pueblo) asked for support from the National Council of Churches (NCC). The NCC saw the action as an important issue of religious liberty and freedom, and NCC officials Russell Carter and Dean Kelley agreed to make the Taos Blue Lake a common cause. The Taos Pueblo Council then approached the New Mexico Council of Churches (NMCC), which passed a resolution upholding the Taos claim to the land. The NMCC endorsement received wide coverage in national newspapers and was influential in convincing many who had been undecided on the validity of the Taos Indians' claim to the lake and surrounding lands.

On September 27, 1968, presidential candidate Richard M. Nixon sent a message to the delegates of the National Congress of American Indians gathered in Omaha, Nebraska. Nixon promised that if he were elected, "the Right of self-determination of the Indian people will be respected and their participation in planning their own destiny will be encouraged." In January 1969, in this new political climate, the Blue Lake bill was again introduced in Congress. On December 15, 1970, Taos Blue Lake and 55,000 surrounding acres of land were returned to the Taos Pueblo Indians. When he signed the bill, President Nixon noted that the federal government was not giving the lake to the Taos Pueblos but returning what had always been theirs.

The return of Blue Lake was significant for Native Americans for at least two reasons. It was the first time the United States had returned Native land to its owners for religious reasons. It also represented a major victory for Indians during a peak era of Native activism.

See also *Nixon, Richard M.*; *Pueblos*; *Religious Organizations and Indian Policy*; *Sacred Sites*; *U.S. Indian Policy: Congress and the Executive, 1960–*.

Troy R. Johnson

BIBLIOGRAPHY

- Bodine, John J. "Blue Lake: A Struggle for Indian Rights." *American Indian Law Review* 1 (Winter 1973): 23–32.
- . "Taos Blue Lake Controversy." *Journal of Ethnic Studies* 6 (Spring 1978): 42–48.
- Collins, Dabney Otis. "Battle for Blue Lake: The Taos Indians Finally Regain their Sacred Land." *American West* 8 (September 1971): 32–37.
- Gordon-McCutchan, R.C. *The Taos Indians and the Battle for Blue Lake*. Santa Fe, N.Mex.: Red Crane Books, 1991.

Taos Uprising (1847)

The Taos Uprising (or Taos Revolt) broke out in the town of Don Fernando de Taos (modern-day Taos, New Mexico) on January 19, 1847. It was led by Pablo Montoya, a Mexican, and Tomás Romero (“Tomasito”), a Taos Indian. The Mexicans and Native Americans who took part in the uprising were unhappy about the 1846 takeover of New Mexico by the U.S. authorities during the U.S.-Mexican War and about the appointment of Charles Bent as the territory’s first governor. The Pueblo Indians of Taos were antagonistic against Bent for his willingness to maintain relations with their enemies, the Kiowas and Comanches.

Tomasito led a group of Indians that killed Bent and a number of other U.S. officials. On the next day, Indians and Mexicans attacked a nearby mill. An employee there, Charles Autobees, managed to escape and ride to Santa Fe, where he alerted U.S. forces. Capt. Jesse I. Morin and Col. Sterling Price led U.S. troops against the insurgency. The rebels retreated to the Taos Pueblo, taking refuge in a church. The U.S. forces killed 150 Indians and Mexicans and captured 400 more. Price convened a court, and twenty-eight prisoners subsequently were hanged.

Although the United States put down this revolt, unrest in the region continued for decades.

See also *New Mexico, Indian Policy of; U.S.-Mexican War (1846–1848).*

Justin Corfield

BIBLIOGRAPHY

- Herrera, Carlos R. “New Mexico Resistance to U.S. Occupation.” In *The Contested Homeland: A Chicano History of New Mexico*, edited by Erlinda Gonzales-Berry and David R. Maciel, 24–40. Albuquerque: University of New Mexico Press, 2000.
- Trennert, Robert A., Jr. *Alternative to Extinction: Federal Indian Policy and the Beginnings of the Reservation System, 1846–1851*. Philadelphia, Pa.: Temple University Press, 1975.

Task Force on Indian Affairs

In the 1960 election campaign, Democratic presidential nominee John F. Kennedy promised dramatic changes in federal Indian policy. The policy had been focused on terminating federal recognition of tribal status, resulting in significant loss of tribal lands. Upon assuming office in 1961, Kennedy had his secretary of the interior, Stewart L. Udall, appoint a Task Force on Indian Affairs to develop a new Indian policy.

The task force, chaired by Udall, was charged with developing strategies to bring about Native economic independence and community sustainability, particularly in the context of the increasing urbanization of Native Americans. The task force, after holding several hearings and interviewing many Indian leaders, recommended the end of termination as well as the creation of federal programs dealing with Native American matters that would be separate from the Bureau of Indian Affairs (BIA).

The federal programs recommended by the task force, collectively deemed the New Trail, included vocational training, economic development initiatives, and an educational program to inform non-Natives about the status of Native communities. The task force also recommended that the federal government negotiate with local and state jurisdictions to ensure that the benefits of citizenship were extended to Native Americans and that tribal law conformed to federal and state laws. Ensuing legislation included the Area Redevelopment Act (1961), the Housing Act (1961), and a retooling of the Manpower Redevelopment and Training Act (1962). The task force also recommended doubling authorizations to the Indian revolving loan program.

See also *Housing; Kennedy, John F.; Termination and Restoration; Udall, Stewart L.; U.S. Indian Policy: Congress and the Executive, 1960–*

Kristin Teigen

BIBLIOGRAPHY

- Butler, Raymond V. “The Bureau of Indian Affairs: Activities since 1945.” *Annals of the American Academy of Political and Social Science* 436 (March 1978): 50–60.
- Jaimes, M. Annette. “The Hollow Icon: An American Indian Analysis of the Kennedy Myth and Federal Indian Policy.” *Wicazo Sa Review* 6 (Spring 1990): 34–44.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.

Taxation

Many Americans believe that Indians do not pay taxes, that Indian nations are not legitimate governments, and that most Indians are wealthy because of casinos. Given public opinion, it should be of little surprise that ordinary citizens and interest groups, especially in states with successful tribal gaming facilities, pressure their elected officials to demand that Indians “pay their fair share.” In fact, many Indian homelands today are relatively small geographic areas that comprise some of the most impoverished communities in

the United States. Despite that poverty, Indian assets are potentially subject to four or five concurrent government taxes: federal, state, county, city, and tribal. Historically, tribes and tribal Indians were exempted from state, local, and general federal taxes. Today, Indians and Indian tribes are still generally excluded from state and local taxes, but federal taxes that apply to all persons usually apply to individual Indians as well. In contrast, federal taxes generally do not apply to Indian tribes, but in certain circumstances tribes have been subjected to internal revenue laws.

Federal Taxation

Under the nineteenth-century intergovernmental tax immunity doctrine, Indian nations, like state governments, were not subject to federal taxation, and the national government was not subject to state taxes. The U.S. Supreme Court affirmed this state of affairs in *McCulloch v. Maryland* (1819). In 1913, however, direct federal taxes were ratified with the Sixteenth Amendment to the Constitution. Congress provided (in 26 U.S.C. sec. 115) an express statutory exclusion from federal taxes for state governments, but not for tribal governments. In 1939 the Supreme Court in *Graves v. New York ex rel. O'Keefe* held that state taxes applied to federal employees. As a result, the rationale for the intergovernmental tax immunity doctrine was rendered obsolete, setting the stage for its erosion and eventual demise.

Because Congress has broad power to legislate in Indian affairs, the rule today is that general federal taxes apply to individual Indians unless an exemption is found in the tax laws or federal Indians laws, including treaties. In some instances, federal courts have held that Indian tribes are also subject to general federal taxes, such as the wagering excise tax and vehicle and fuel excise taxes. In other cases, Congress has expressly excluded tribes from federal taxes, such as the federal unemployment tax, to eliminate any question of their applicability.

In the majority of situations, however, tribes are excluded from federal taxes. For example, Indian tribes are not subject to the federal income tax because Indian tribes are not taxable entities. The same federal tax exclusion extends to certain tribal corporations. Unincorporated business entities wholly owned by a tribe and wholly owned tribal corporations are not taxable, according to section 17 of the Indian Reorganization Act (IRA) of 1934, but tribally owned corporations formed under state law are taxable (Rev. Rul. 94-16, 1994-1 C.B. 19). The tax status of tribal entities chartered under tribal law is less certain, although the Internal

Revenue Service (IRS) has indicated that it will treat them the same as tribes.

In a similar manner, the Indian Governmental Tribal Tax Status Act of 1982 (26 U.S.C. sec. 7871) treats tribes as states for certain federal tax purposes. The legislation provides that tribes are excluded from certain fuel taxes, manufacturers' excise taxes, communications-related taxes, and highway vehicle use taxes. Tribes are also authorized to issue tax-exempt bonds; charitable contributions to tribes are exempt from income, estate, and gift taxes; and tribal colleges enjoy tax-exempt status. Like states, a tribal government must be performing an essential governmental function to qualify for many of these tax benefits.

Individual Indians were historically not taxed, per the U.S. Constitution, Article 1, Section 2, Clause 3, and the Fourteenth Amendment, Section 2. In 1870, however, the Supreme Court held in *The Cherokee Tobacco* that federal tobacco taxes apply to products manufactured and sold by individual Cherokees within Cherokee territory. The Cherokee Nation and the federal government had negotiated a treaty in 1866 to exclude taxes on Indian products, but two years before Congress enacted the 1868 general tobacco tax, the Court held that an act of Congress could override an Indian treaty. In 1884 the Court ruled in *Elk v. Wilkins* that general federal statutes did not apply to Indians unless Congress clearly included them, but *The Cherokee Tobacco* decision has been nonetheless reaffirmed to allow federal tax power over individual Indians within Indian Country.

Supreme Court cases in the 1930s, such as *Superintendent v. Commissioner* (1935), held that Indians were subject to federal tax laws unless Congress expressly exempted or excluded them. The primary exemption to the federal income tax, based on language from the General Allotment Act (GAA) of 1887, is for income "derived directly" from an individual Indian's own trust allotment. In *Squire v. Capoeman* (1956), the Court held that the exemption was necessary to ensure that the allottees receive the full economic benefit of the land. Over time, the IRS interpreted the exemption fairly narrowly, however, finding that income from tribal trust land or another's allotment is not tax exempt. In addition to the Indian allotment exemption, Congress has specifically exempted income from the exercise of treaty fishing rights from the federal income tax (26 U.S.C. sec. 7873).

State Taxation

Tribes and their members are immune from state and local taxes unless Congress authorizes them. As far back as 1866,

the Supreme Court held in *The New York Indians* and *The Kansas Indians* that Indian tribes and individual Indians were immune from state property taxes. More than a century later, in *McClanahan v. State Tax Commission of Arizona* (1973), the Court held that Indians living and earning their income on reservations are excluded from state income taxes. More recently, the Court announced in *Oklahoma Tax Commission v. Chickasaw Nation* (1995) “a categorical approach”: a state has no power to tax Indian lands and persons within Indian Country unless Congress has authorized the state tax.

If Congress does authorize state taxes for Indians, the authorization is supposed to be “unmistakably clear” in the legislation. In 1992 the Supreme Court held that Congress clearly authorized state real property taxes on Indian lands that had been allotted under the General Allotment Act and subsequently passed out of trust status. Because the GAA provided a tax exclusion for trust lands, the Court, in *County of Yakima v. Confederated Tribes and Bands of the Yakima Indian Nation* (1992), ruled that once the lands were held by Indians in fee, the previous tax-free status expired. The Court subsequently held in *Cass County v. Leech Lake Band of Chippewa Indians* (1998) and *City of Sherrill v. Oneida Indian Nation of New York* (2005) that any lands owned in fee by an Indian or Indian tribe within a reservation are subject to state and local property taxes. The authorization is only for property taxes, however; the Court determined in the *County of Yakima* case that Congress had not authorized a state excise tax on the sale of an Indian’s fee land.

If state taxes fall on nonmembers within Indian Country, they are generally permissible unless preempted by federal law. Thus, state consumer taxes, such as on tobacco or motor fuels, generally apply to non-Indian customers at tribal and Indian-owned businesses in Indian Country, based on the ruling in *Wagnon v. Prairie Band Potawatomi Nation* (2005). The Supreme Court has also allowed state severance taxes on non-Indian companies involved in natural resource activities on reservations, as held in *Cotton Petroleum Corp. v. New Mexico* (1989). On the other hand, some state taxes, such as those on Indian traders, are preempted by federal statutes, as per *Warren Trading Post v. Arizona State Tax Commission* (1965). Other state taxes, such as fuels taxes, levied on non-Indians doing business with tribes may be preempted if the tribe and the federal government, rather than the state, provide services to the non-Indians, as the Court ruled in *White Mountain Apache Tribe v. Bracker* (1980).

Indians and Indian-owned fee land outside of Indian Country are subject to state and local taxes unless Congress

specifically prohibits the tax. For example, a tribally operated ski resort on land leased from the federal government and located adjacent to the tribe’s reservation was held subject to the state’s gross receipts tax in *Mescalero Apache Tribe v. Jones* (1973). An example of Congress proscribing state taxes is the prohibition of state taxes on tribal members’ income from the off-reservation exercise of treaty fishing rights (26 U.S.C. sec. 7873).

Tribal Taxation

As governments, Indian tribes have the inherent power to tax. Tribes can tax their members as they see fit, but issues sometimes arise concerning tribal taxation of non-tribal members. As early as 1904, in *Morris v. Hitchcock*, the Supreme Court upheld a tribal tax on non-Indians grazing cattle on tribal lands. The Court has continued to find in favor of tribal taxes on non-Indian customers of tribal or Indian-owned businesses located on reservations, and tribal taxes on non-Indian companies that mine or engage in other types of activities on tribal or Indian lands in Indian Country, as per *Merrion v. Jicarilla Apache Tribe* (1982).

In 1981 the Court ruled in *Montana v. United States* that Indian tribes retain the inherent sovereignty to tax non-Indians who enter into “consensual relationships” with Indian tribes or their members. Although taxes on customers and lessees, for example, come within this approach, some other taxes do not. In 2001 the Supreme Court, in *Atkinson Trading Company v. Shirley*, struck down a tribal hotel occupancy tax on non-Indian guests of a non-Indian hotel on non-Indian fee land surrounded by the Navajo reservation. The Court held that there was no direct consensual relationship between the hotel guests and the tribe. Because of recent case law, many Indian tribes and states are entering into cooperative tax agreements to preclude multiple taxation on the same activities.

See also *General Allotment Act (Dawes Act) of 1887*; *Indian Country*; *Indian Reorganization Act (1934)*; “*Indians Not Taxed*”; *Preemption*.

Donald Laverdure

BIBLIOGRAPHY

- Jensen, Erik M. “Taxation and Doing Business in Indian Country.” *Maine Law Review* 60 (2008): 1–95.
- Newton, Nell Jessup, ed. *Cohen’s Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005. Suppl. 2007.
- Pevar, Stephen L. *The Rights of Indians and Tribes: The Basic ACLU Guide to Indian and Tribal Rights*. 3rd ed. Carbondale, Ill: Southern Illinois University Press, 2002.

Taylor, Scott. "A Judicial Framework for Applying Supreme Court Jurisprudence to the State Income Taxation of Indian Traders." *Michigan State Law Review* (Fall 2007): 841–904.

———. "State Property Taxation of Tribal Fee Lands Located within Reservation Boundaries: Reconsidering *County of Yakima v. Confederated Tribes & Bands of the Yakima Indian Nation* and *Leech Lake Band of Chippewa Indians v. Cass County*." *American Indian Law Review* 23 (1998/1999): 55–95.

White, Jay Vincent. *Taxing Those They Find Here: An Examination of the Tax Exempt Status of the American Indian*. Washington, D.C.: Institute for the Development of Indian Law, 1972.

Taylor, Nathaniel G.

Nathaniel Green Taylor (1819–1887) served as commissioner of Indian affairs from 1867 until 1869.

Taylor was born on December 29, 1819, in Happy Valley, Tennessee. He attended Washington College, near Jonesborough, Tennessee, and graduated from the College of New Jersey, which later became Princeton University, with a law degree in 1840. Taylor served in the U.S. House of Representatives as a Whig from 1854 to 1855 and as a Republican from 1866 to 1867.

President Andrew Johnson selected Taylor, who was unfamiliar with Indian issues, as commissioner of Indian affairs to replace Lewis V. Bogy, who was mired in a financial scandal. During his tenure, Taylor pursued a policy of making peace with Indians in the West. He proposed that the government establish three large reservations in the West, move the tribes onto the reservations, provide Indians with an education and vocational training, and convert them to Christianity. Taylor feared that failure to move the tribes to reservations would result in their extinction. He condemned Indian agents who counseled war against Indians and the government for breaking treaties with the tribes.

Taylor, influenced by the Sand Creek Massacre (November 29, 1864) and the Fetterman Massacre (December 21, 1866), opposed efforts to move the Office of Indian Affairs back to the War Department. He saw the retransfer issue as an effort by the military to acquire more power and did not believe that soldiers could be expected to teach Indians Christian values. Because he thought the Interior Department was overburdened with responsibilities, Taylor called for the Indian office to become an independent Department of Indian Affairs.

While commissioner, Taylor served as the president of the Peace Commission, which investigated the state of Indian affairs and negotiated treaties with several Great Plains tribes at Medicine Lodge Creek and Fort Laramie. Taylor retired

when Ulysses S. Grant became president in 1869 and spent the rest of his life farming, practicing law, and preaching. He died on April 1, 1887, in Happy Valley.

See also *Assimilation and Acculturation; Fetterman Massacre; Fort Laramie (1851), Treaty of; Fort Laramie (1868), Treaty of; Medicine Lodge Creek (1867), Treaty of; Sand Creek Massacre (1864).*

Justin Corfield

BIBLIOGRAPHY

Mardock, Robert Winston. *The Reformers and the American Indian*. Columbia: University of Missouri Press, 1971.

Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.

Unrau, William E. "Nathaniel Green Taylor." In *The Commissioners of Indian Affairs, 1824–1877*, edited by Robert M. Kvasnicka and Herman J. Viola, 115–122. Lincoln: University of Nebraska Press, 1979.

Taylor, Zachary

Zachary Taylor (1784–1850), the twelfth president of the United States, was born in Orange County, Virginia. During the War of 1812, he defended Fort Harrison on the Wabash River against the British and Shawnee Indians led by Tecumseh. As a U.S. Army major, Taylor in 1814 engaged a pan-Indian force at Credit Island on the Mississippi River. From 1829 to 1832 he was responsible for Indian relations while serving at Fort Snelling in Minnesota. Taylor also fought with distinction in the war with Black Hawk, the leader of Sac and Fox Indians in Illinois.

Taylor earned the nickname "Old Rough and Ready" during the Second Seminole War (1835–1842), when in December 1837 he, along with a force of eleven hundred, including Shawnee and Delaware Indians, defeated the Seminoles at Lake Okeechobee in the largest battle of the war. The following May he was named commander of the Department of Florida and charged with subduing the Seminoles. He resigned from the post in 1840 after failing to bring the war to a conclusion.

His success in the U.S.–Mexican War persuaded the Whig Party to make him its nominee for president in 1848. Taylor defeated Lewis Cass in the election but died in office after serving only two years.

President Taylor used the position of commissioner of Indian affairs to reward his political supporters. Orlando Brown and Luke Lea, who served as commissioner during the Taylor administration, believed that Native culture was inferior to that of white Americans but that it could be ele-

vated by education. Under their authority, the government expanded the reservation system with the hope that the confined Indians would embrace agriculture and Western civilization. Not long before his death, Taylor ordered the removal of the Chippewas (Anishinabek) from northern Wisconsin to Minnesota. More than four hundred of the Indians died on the march to their new home during the winter of 1850–1851.

See also *Black Hawk War (1832); Reservations; Second Seminole War (1835–1842); U.S.-Mexican War (1846–1848); War of 1812 (1812–1814).*

Patit Paban Mishra

BIBLIOGRAPHY

- Bauer, Karl Jack. *Zachary Taylor: Soldier, Planter, Statesman of the Old Southwest*. Baton Rouge: Louisiana State University Press, 1985.
- Kvasnicka, Robert M., and Herman J. Viola, eds. *The Commissioners of Indian Affairs, 1824–1877*. Lincoln: University of Nebraska Press, 1979.
- Smith, Elbert B. *The Presidencies of Zachary Taylor and Millard Fillmore*. Lawrence: University Press of Kansas, 1988.

Tecumseh

Tecumseh (c. 1768–1813) was a Shawnee chief who tried to consolidate numerous tribes into one organized pan-Indian resistance to the aggressive American expansion into the old Northwest, the area north and west of the Ohio River.

Tecumseh was born in the Shawnee village of Old Piqua in Ohio. His father, Puckeshinwa, was a Shawnee war chief who was killed in Lord Dunmore's War (1774). His mother, Methoataske, may have had Creek or Cherokee ancestry, or both. In the early 1790s Tecumseh became involved in the struggles on the American frontier and probably participated in the Indian victories over the armies of Josiah Harmar and Arthur St. Clair and the American victory at the Battle of Fallen Timbers (August 20, 1794). By 1795 he was a war chief, and he refused to sign the Treaty of Greenville in which the tribes of the old Northwest ceded away much of Ohio.

Tecumseh reportedly learned to read and studied history and literature in an effort to understand white Americans. In the late eighteenth and early nineteenth centuries, conflicts continued to arise as the United States pursued its strategy of expansion, making treaties with one tribe after another, as American settlers moved onto Indian lands. Tecumseh became increasingly frustrated with American encroachments into Indian Territory.

By 1803 Tecumseh had become a leading spokesman for tribal delegations meeting with Americans. He was described as a forceful and bold orator. He delivered a consistent message over the next several years: the past treaties were falsehoods, the American claims to Ohio were fraudulent, and no more sales of Indian lands would take place unless all the tribes agreed. The tribes would fight to defend their lands. Tecumseh was apparently arguing for a new form of Indian land ownership. The remaining Indian lands were owned in common by all tribes. He was also promoting a new and expansive pan-Indian confederacy that would reach from Canada to the Gulf of Mexico to protect Indian lands.

In April 1805, Tecumseh's brother, Tenskwatawa, began having visions that the Shawnees should return to their old ways and culture and reject the Americans' alcohol, trade goods, and Christianity. Tecumseh and Tenskwatawa (who became known as "the Shawnee Prophet") established a movement to push the Americans and their culture back to the East.

Tecumseh traveled extensively, over many years, to western, southern, and Great Lakes tribes spreading Tenskwatawa's message and attempting to organize the tribes to fight to protect their common interest—the preservation of tribal lands. In 1808 Tenskwatawa and Tecumseh moved from Ohio into western Indiana and established Prophetstown (Tippecanoe) as a place where Native people could live free from the effects of American culture.

Between 1805 and 1809, the United States signed several treaties with friendly chiefs in the old Northwest, requiring the tribes to surrender millions of acres. In the summer of 1810, Tecumseh told Indiana Territory governor William Henry Harrison that he had no intention of starting a war, but peace was unlikely unless America ceased its westward expansion. He also told Harrison to stop encroaching on Indian lands, that the land belonged to all the tribes, and that there would be no more sales. By that November, Tecumseh was asking British officials for assistance and telling them that his purpose was to unite all the western tribes against the Americans.

In fall 1811, Tecumseh met with Harrison again and then traveled south to recruit more tribes to his confederacy. With Tecumseh gone, Harrison moved to disperse the Indians gathered at Prophetstown and break up the emerging Indian confederacy. On November 7, Harrison and one thousand soldiers were one mile from Prophetstown when the Prophet, encouraged by his young male followers, ordered an attack. After several hours of fighting, Harrison's army

repelled the Indians. Harrison then marched on Prophets-town, destroyed the Indians' supplies, and burned the town to the ground.

In the War of 1812, Tecumseh and most of the Indians in the old Northwest fought for the British. The British commander recognized Tecumseh as the leader of the Indian forces, which sometimes numbered in the thousands. Tecumseh was actively involved in English campaigns in 1812 and 1813 in Canada. But as the English fought a defensive war, Tecumseh began to despair. He was not fighting to defend Canada but to regain the Indian homelands.

Tecumseh was killed in the Battle of the Thames on October 5, 1813, although his body was never recovered or identified. Tecumseh's death, along with Andrew Jackson's destruction of the Red Stick Creeks at the Battle of Horseshoe Bend (1814), signaled the end of the viability of Native armed resistance to American expansion east of the Mississippi. It also marked the retreat of the British from the region, thus ending the ability of Indian leaders such as Tecumseh to play Great Britain off against the United States. The collapse of Tecumseh's dream, the pan-Indian confederation that could repel U.S. expansion, opened the way for discussions of a federal policy that would culminate in the 1830s with the removal of the eastern tribes to west of the Mississippi River.

See also *Fallen Timbers* (1794), *Battle of; Greenville* (1795), *Treaty of; Harmar, Josiah; Harrison, William Henry; St. Clair, Arthur; Taylor, Zachary; Tenskwatawa; War of 1812* (1812–1814).

Robert J. Miller

BIBLIOGRAPHY

- Dowd, Gregory Evans. *A Spirited Resistance: The North American Indian Struggle for Unity, 1745–1815*. Baltimore, Md.: The Johns Hopkins University Press, 1993.
- Edmunds, R. David. *Tecumseh and the Quest for Indian Leadership*. Boston, Mass.: Little, Brown, and Co, 1984.
- Howard, James H. *Shawnee: The Ceremonialism of a Native American Tribe and Its Cultural Background*. Athens: Ohio University Press, 1982.
- Sugden, John. *Tecumseh: A Life*. New York: Henry Holt and Company, 1998.

Tee-Hit-Ton Indians v. United States (1955)

The same U.S. Supreme Court that decided *Brown v. Board of Education* (1954) held that aboriginal Indian tribal property taken by the federal government is not property compensable under the due process clause of the Fifth Amendment.

In *Tee-Hit-Ton Indians v. United States* (348 U.S. 272, 1955), the tribe, a small Alaska Native community, sued the United States for the taking of valuable timber on its lands. The secretary of the interior had authorized the sale of vast amounts of timber from the Tongass National Forest in Alaska. The Court held that because the United States had never “recognized” the property interests of the tribe via an act of Congress or a treaty, the taking of tribal timber was not compensable. The case constituted a reminder that the finding in *Johnson v. M’Intosh* (1823), that Indian tribes did not hold full property rights to their aboriginal lands by virtue of their dependent status, had real-world implications.

The Court in *Tee-Hit-Ton*, in an opinion by Justice Stanley F. Reed, justified its decision on the grounds that it believed that these Indians were no more than nomads who never acquired an interest in the land. The opinion focused on assertions that there were few tribal members, that they had a communal property ownership system, and that they had little capacity for developing the timber resources. The opinion concluded: “Every American schoolboy knows that the savage tribes of this continent were deprived of their ancestral ranges by force and that, even when the Indians ceded millions of acres by treaty in return for blankets, food and trinkets, it was not a sale but the conquerors’ will that deprived them of their land.” The Court’s views of Indian property interests followed those of Congress, which two years earlier had begun terminating Indian tribes.

Commentators such as Joseph William Singer argued that the Court’s description of the Tee-Hit-Ton Indians, a clan of the Tlingit nation—that they had never been conquered by any imperial power and that their capacity to hold and protect their property rights should not be an issue—was inaccurate. David E. Wilkins and K. Tsianina Lomawaima called the decision “one of the most glaring misrepresentations of fact” by the Supreme Court (*Uneven Ground*, pp. 22–24). In many ways, the decision presaged the Supreme Court’s decision in *Alaska v. Native Village of Venetie* (1998), holding that the Alaska Native Claims Settlement Act deprived Alaska Native lands of “Indian Country” status.

Despite being among the most highly criticized opinions in the federal Indian law canon, the *Tee-Hit-Ton* decision does not have a significant impact today. Few, if any, Indian lands and other property interests are held without “recognized” status, as defined in the case. The decision nevertheless is symbolic of the federal government’s double-dealing as the trustee of Indian property and of the Supreme Court’s unwillingness to recognize tribal interests. Most important,

the “every American schoolboy” portion of the opinion is evidence of the very real racism and ethnocentrism that have clouded federal Indian law and policy from the start.

See also *Alaska Native Claims Settlement Act of 1971*; *Alaska Natives*; Johnson v. M’Intosh (1823); *Termination and Restoration*; *U.S. Supreme Court and Indian Policy, 1935–1965*; *U.S. Supreme Court and Indian Policy, 1978–*.

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BIBLIOGRAPHY

- Alaska v. Native Village of Venetie*, 522 U.S. 520 (1998).
 Maltz, Earl M. “Brown and Tee-Hit-Ton.” *American Indian Law Review* 29 (2004–2005): 75–100.
 Singer, Joseph William. “Sovereignty and Property.” *Northwestern University Law Review* 86 (Fall 1991): 1–56.
 Wilkins, David E., and K. Tsianina Lomawaima. *Uneven Ground: American Indian Sovereignty and Federal Law*. Norman: University of Oklahoma Press, 2001.

Teller, Henry M.

Henry M. Teller (1830–1914), Republican U.S. senator from Colorado and secretary of the interior from 1882 to 1885, held contradictory views on Indian policy. Because he is often cited as a critic of the General Allotment Act (Dawes Act) of 1887, some scholars regard him as generally supportive of Indian land rights; yet Teller also supported the transfer of tribal lands to non-Indians. He simply advocated different means.

Teller practiced law for a time in Illinois and Colorado. In 1876 he was elected to the U.S. Senate, where he became interested in Indian issues. In 1882 president Chester A. Arthur appointed him secretary of the interior.

As secretary, Teller oversaw the operations of the Office of Indian Affairs (OIA), incorporating westerners’ views on regional development policies that directly impacted Indian land tenure. Teller supported the opening of mineral, timber, and grazing lands inside unceded Indian territories to American exploitation, often in disregard of treaty obligations that protected the lawful property interests of tribes like the Utes, the Kickapoos, and the Turtle Mountain Chippewas.

Teller also actively pursued aggressive assimilationist policies. Through the Court of Religious Offenses (created in 1883), the OIA under Teller moved against cultural and religious practices it deemed “heathenish” (for example, dancing). Teller argued that the government should replace boarding schools with compulsory, co-ed reservation schools offering vocational training.

Teller’s oversight of the Indian service was marked by assaults on land tenure and Native culture. His views were characteristic of those of the era’s so-called “friends of the Indian”—views that ultimately led to policies and pursuits damaging to both Native rights and indigenous cultures.

See also *Courts of Indian Offenses*.

John M. Shaw

BIBLIOGRAPHY

- Ellis, Elmer. *Henry Moore Teller: Defender of the West*. Caldwell, Idaho: Caxton Printers, 1941.
 Shaw, John M. “‘In Order That Justice May Be Done’: The Legal Struggle of the Turtle Mountain Chippewa, 1795–1905.” PhD diss., University of Arizona, 2004.

Ten Bears (Parra-Wa-Samen)

An eloquent orator, Ten Bears (Parra-Wa-Samen) (1792–1872) was an influential Yamparika Comanche chief and a participant in prominent councils where he often spoke for peace when others preferred war.

After meeting with President Abraham Lincoln in 1863, Ten Bears signed a treaty with U.S. government agents at the Little Arkansas River in 1865 that provided for a Comanche reservation in southwestern Oklahoma. Just two years later, in 1867, Ten Bears signed the Treaty of Medicine Lodge Creek in Kansas. In his oft-cited speech at Medicine Lodge, Ten Bears emphasized his desire to live and die free on the prairie rather than in a restricted reservation environment, reminding the peace commissioners assembled there of Lincoln’s earlier promise to him that all Comanche land belonged to the Comanche bands, collectively. Unable to sway his audience, Ten Bears had little choice but to agree to the Medicine Lodge Creek treaty that surrendered claims to Comanche lands in exchange for a 3-million-acre (1.2-million-hectare) reservation between the Washita and Red rivers, mostly in Texas. In return for his signature, Ten Bears received a promise (ultimately unfulfilled) for concessions of food, clothing, a resident agent, schools, physicians, blacksmiths, and farming instructions and supplies. Ten Bears returned to Washington in 1872 to council with President Ulysses S. Grant and the commissioner of Indian Affairs.

Ten Bears’ commitment to peace alienated him from many of his fellow Comanches. Shortly after his return from Washington, he died at Fort Sill with only his son in attendance.

See also *Lincoln, Abraham; Medicine Lodge Creek (1867), Treaty of*

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BIBLIOGRAPHY

- Brown, Dee. *Bury My Heart at Wounded Knee: An Indian History of the American West*. New York: Bantam, 1972.
- Hagen, William T. *United States-Comanche Relations: The Reservation Years*. New Haven, Conn.: Yale University Press, 1976.
- Leckie, William H. *The Military Conquest of the Southern Plains*. Norman: University of Oklahoma Press, 1963.
- Richardson, Rupert Norval, ed. *The Comanche Barrier to South Plains Settlement*. 1933. Millwood, N.Y.: Kraus Reprint Co., 1973.

Tendoy

Tendoy (1834–1907) was born near the Boise River in present-day Idaho to a Tukudeka mother and Bannock father. Tendoy's multiethnic heritage influenced his political life. After serving as a war leader, Tendoy ascended to headman in 1863. The Lemhi River villages of Agaidika, Tukudeka, Kucundika, and Bannock consolidated and the Indians there became known as the Lemhi Shoshones under his leadership.

Though Tendoy advocated peaceful relations with local settlers, he also fought to retain Lemhi sovereignty. He resisted relocation to the Fort Hall reservation, and on February 12, 1875, secured an agreement founding the Lemhi Valley reservation. Throughout his years on the Lemhi Valley reservation, Tendoy maintained neutrality during numerous regional wars and protected settlers from harm. For this, the U.S. Congress awarded him a lifetime pension in 1892.

Pressure to relocate to the Fort Hall reservation nevertheless persisted. Tendoy continued to resist policies that threatened Lemhi sovereign identity. He refused to place children in school and tore down fencing that divided up the reservation. In 1905 U.S. Inspector James McLaughlin issued an ultimatum, implying that to remain at Lemhi Valley would be disastrous for Tendoy and his people. Tendoy finally agreed and advised his followers to accept the deal offered by McLaughlin. In June 1909 the Lemhis were removed to Fort Hall.

Tendoy passed away at his home on May 10, 1907, before the relocation took place. Anglo residents of Salmon, Idaho, erected a monument in his honor. Tendoy's legacy continued as the Lemhis fought to return to the Lemhi Valley. On October 17, 1994, the Lemhis received a certificate of incorporation to pursue federal recognition, return to their traditional homeland, and continue the struggle to remain ethnically distinct.

See also *Bannock War (1878); Nez Perce War (1877); Paiute (Pyramid Lake) War (1860); Reservations; Westward Migration*.

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BIBLIOGRAPHY

- Campbell, Gregory R. "The Lemhi Shoshone: Ethnogenesis, Sociological Transformations, and the Construction of a Tribal Nation." *American Indian Quarterly* 25, no. 4 (2001): 539–578.
- Crowder, David L. *Tendoy, Chief of Lemhis*. Caldwell, Idaho: Caxton Printers, 1969.

Tenskwatawa

Tenskwatawa (1775–1836), or Lalawethika ("the Noise Maker") as he was known as a young man, was born in the Shawnee village of Piqua in what is now Ohio. His older brother, Tecumseh, became the political and military leader of a pan-Indian resistance movement in the old Northwest, the area north and west of the Ohio River. As Tenskwatawa, Lalawethika became a leader of a religious and political movement that aimed to preserve Indian culture and drive the United States out of Indian Territory.

By 1805 the American expansion into the old Northwest, overhunting, and the introduction of guns, manufactured goods, and alcohol were seriously disrupting Indian life. For many Natives, including Lalawethika, these items had become necessities, and the sovereignty and culture of the old Northwest tribes were being lost.

In April 1805, Lalawethika had a spiritual vision in which the Master of Life told him how the Shawnees and other Indians could regain their traditional lifestyle, resist American expansion, and secure their land and autonomy. Lalawethika, who would become known to Americans as "the Shawnee Prophet," taught Indians to reject alcohol, Western tools and technology, and white cultural practices in an effort to return to their original way of life. He called for tribes to end their wars against each other and turn their collective power against the United States. He then took on the name Tenskwatawa ("the open door"), claiming he could heal and protect warriors from harm. He began attracting followers after establishing his own village in western Ohio.

Tenskwatawa worked with his brother to turn this religious revival into a political movement and an organized confederacy to resist American expansion. By April 1808, Tenskwatawa and Tecumseh had established Prophetstown (later called Tippecanoe) in western Indiana and had attracted a sizable number of Indians from many different tribes.

As Tenskwatawa and Tecumseh's movement expanded, William Henry Harrison, the governor of the Indiana Territory, began to consider the leaders a threat to American interests. In the summer of 1811, Harrison received approval to attack Prophetstown and put down the movement. On November 6, Harrison and a thousand soldiers arrived and encamped within one mile of the village. Tecumseh was away in the South attempting to raise support for the pan-Indian movement when Tenskwatawa seized the opportunity and ordered his men to attack Harrison's troops. Although the casualties on both sides were about equal, the Indians abandoned their village. Many blamed Tenskwatawa for this defeat because his spiritual power had failed to protect them from danger, and, as a result, he forfeited most of his influence and moved to Canada. Tecumseh took over complete leadership of the pan-Indian confederacy but was killed at the Battle of the Thames on October 5, 1813. His death effectively ended the Native resistance in the old Northwest.

Tenskwatawa remained in Canada until 1826, when he returned to the Shawnees. He was in Missouri for a while before moving on to Kansas. At each stop along the way, he tried to reignite his prophetic revitalization movement. Tenskwatawa died nearly forgotten in 1836.

While Tecumseh has always received attention for his leadership of the Northwest pan-Indian revolt, in recent years scholars have recognized Tenskwatawa's role as the spiritual leader of the revolt and realized the impact that Tenskwatawa had on Tecumseh and his followers.

See also *Harrison, William Henry; Tecumseh; War of 1812 (1812–1814).*

Robert J. Miller

BIBLIOGRAPHY

- Dowd, Gregory Evans. *A Spirited Resistance: The North American Indian Struggle for Unity, 1745–1815*. Baltimore, Md.: Johns Hopkins University Press, 1993.
- Edmunds, R. David. *Tecumseh and the Quest for Indian Leadership*. Boston, Mass.: Little, Brown, and Co., 1984.
- . *The Shawnee Prophet*. Lincoln: University of Nebraska Press, 1983.
- Howard, James H. *Shawnee: The Ceremonialism of a Native American Tribe and Its Cultural Background*. Athens: Ohio University Press, 1982.
- Sugden, John. *Tecumseh: A Life*. New York: Henry Holt and Company, 1998.

Termination and Restoration

With the adoption of House Concurrent Resolution (HCR) 108 in 1953, Congress indicated its support for ter-

mination—the removal of federal supervision over federally-recognized Native American tribes. HCR 108 was not a bill. It served as a policy statement providing the legislative foundation for Congress to accept bills that would terminate the federal relationship with Indian tribes. Within ten years of its passage, 109 tribes had been terminated and their special trust relationship with the federal government severed. While federal recognition has since been restored to many of these tribes, termination continues to cast a lingering pall over the relationships between many tribal groups and the U.S. government.

Historical Background

Indian tribes possess sovereign powers, and many aspects of governing tribal lands and internal affairs are conducted on a government-to-government basis with the United States. Congress, however, ultimately holds plenary (complete) power over federally recognized tribes. In effect, Congress can act to change the relationship between the United States and tribes through treaty abrogation, through the extension of federal laws onto Indian lands, and through terminating the federal trustee relationship.

Historically, federal actions over tribes and tribal lands have been driven either by the goal of assimilation or that of separation. Removal of Indians from traditional homelands to reservations dedicated for their exclusive use—in order to open desirable land for non-Indian settlement—was an act of separation. Later, in 1887, the federal government began allotting reservation lands in order to remove the lands from communal status, to give Indian allottees a sense of individual ownership, and to open “excess” land for settlement. The ultimate objective of the allotment policy was to assimilate individual Indians into mainstream American society. Supporters of allotment believed that private property ownership and the presence of non-Indian neighbors on former reservation lands would encourage Indians to adopt Anglo-American cultural values and practices.

Under the Indian Reorganization Act of 1934, Indians enjoyed a brief reprieve from aggressive assimilationist practices. The IRA reversed allotment and encouraged tribes to regenerate their tribal governments by enabling them to adopt tribal constitutions and governments that resembled municipal corporations. The IRA has come to be interpreted by many Indians as assimilationist because it required a Western corporate model of governance under which tribes would move toward eventual assimilation.

The Origins of Termination

Congressional support of the IRA waned in the late 1930s and early 1940s. The programs were expensive and the expected outcomes—high levels of self-sufficiency for Indian communities—were slow to appear. The Office of Indian Affairs (OIA, later renamed the Bureau of Indian Affairs, BIA), the agency charged with oversight of all matters related to Indian Country, was also expensive; eliminating the OIA, many in Congress believed, would reduce pressure on the federal budget. Some also believed that the era of OIA paternalism should come to an end and that Indians should be emancipated from their dependence on the OIA and from federal funding. Several members of Congress offered termination as an alternative, a radical new approach that called for the dissolution of the federal relationship with Indian tribes, as well as the end of tribal sovereignty. Supporters of termination wanted to eliminate tribal jurisdiction, subject Indian individuals to the authority of the states, and redistribute reservation lands and resources to Indian individuals.

In 1946 Congress passed the Indian Claims Commission Act to hear Native claims against the government. John Collier, the commissioner of Indian affairs during much of Franklin D. Roosevelt's administration (1933–1945), had argued for a claims commission to compensate tribes for the loss of their lands. Supporters of the termination policy, however, instead saw the claims commission as a way to resolve Indian claims once and for all and as a means to enable the federal government to end its trust responsibility to the tribes. Under the law, a board would hear tribal claims against the government, and tribes would be compensated in money for their losses; the return of land was not an available remedy under the law. Over the next thirty years the commission ordered the payment of more than \$800 million in compensation claims.

In 1947 Congress asked William Zimmerman, the acting commissioner of the BIA, to identify those tribes prepared to live without federal support and supervision. He placed tribes into one of three categories: (1) those that were then ready for termination; (2) those that would be ready for termination within ten years; and (3) those that would not be ready for termination at any point in the foreseeable future. In placing tribes into the three categories, Zimmerman took into account the tribe's degree of acculturation, whether it was prepared to be economically self-sufficient, the ability of the state in which the tribe was located to provide services

once offered by the federal government, and the tribe's support for its termination. Under this system, the government decided that the Klamaths, the Osages, the Menominees, and the Flatheads were ready for immediate termination.

After World War II (1939–1945) President Harry S. Truman (1945–1953) had created the Hoover Commission (formally the Commission on Organization of the Executive Branch of the Government) to find ways to reduce government expenditures. The commission's 1948 report supported those pushing for termination. It recommended that the government abolish the BIA and either eliminate programs for Indians or transfer them to other government agencies. The commission also called for the government to assimilate the Indian population as quickly as possible.

Dillon S. Myer, who had been responsible for the Japanese internment camps during World War II, became commissioner of the BIA in 1950. Myer wanted to "liberate" Indians from reservations and prepare them for assimilation as soon as possible. Myer also believed that the federal programs that provided any benefits to Indians that were not available to other American citizens gave Natives a privileged status, and he forged ahead to implement termination as quickly as possible. In 1952 Congress passed House Concurrent Resolution 698, which directed the BIA to determine which tribes were prepared to be terminated. Myer again separated the tribes into approximately the same categories as had Zimmerman. In 1953 Congress passed House Concurrent Resolution 108, which declared that Indians should be subject to the same laws and entitled to the same benefits as other Americans and called for the termination of the government's trust responsibility to Indians. Thereafter, Congress enacted separate bills when it sought to terminate a specific tribe. The termination bills typically ended the federal trust relationship with a tribe, set the existing tribal government on the road to dissolution, and terminated federal services to the tribe and its citizens.

Fifteen days later, Congress passed Public Law 280, which was designed to implement termination by making Indians in states in which there were large Native populations subject to state jurisdiction. Under the law, the states of California, Minnesota, Nebraska, Oregon, and Wisconsin acquired some civil and complete criminal jurisdiction over most tribal members within their borders. The law also allowed other states the option of extending their jurisdiction over resident Indians. Public Law 280 was a dramatic break from previous federal policy, which had prohibited the states from interfering in Indian affairs.

Indian counsel on policies regarding their sovereignty and lands was notably absent throughout the history of their relationships with the federal government. Termination was no different. Although Congress included a consent requirement in many pieces of termination legislation, it did not allow the tribes to reject state extension of jurisdiction over Indian Country. In hindsight, Indians were allowed little say in the construction of the termination policy but carried the bulk of the weight in getting it overturned.

The Menominee Case

The flaws of the termination policy were best exemplified by the experiences of the Menominees in Wisconsin and the Klamaths in Oregon. Menominee termination was the most prominent failure of the policy. Efforts to terminate the Menominees began as early as 1951, although the first bill related to Menominee termination, HCR 108, was not passed until 1953. The Menominees were among the first tribes recommended for termination because of their ranking in the Zimmerman plan.

Senator Arthur V. Watkins (R.-Utah), an enthusiastic proponent of termination, was intent on removing the Menominees from federal supervision. The Menominees had a strong financial foundation in the early 1950s, and they generally felt prepared to take on management responsibility of their reservation businesses. They owned extensive timber resources, a saw mill, utilities, and a small clothing factory. Their primary financial support came from timber and timber-related employment. Mill employees earned a good living, but Menominees held only 20 percent of mill jobs and none of the executive positions. Moreover, one-third of the Menominees received some form of government assistance.

In 1953 the Menominee General Council passed a resolution to transfer supervisory and administrative responsibilities held by the federal government to the Menominees, to be completed no later than 1958. The Council also included a clause specifically indicating they did not wish to completely end federal supervision. Watkins, however, remained intent on complete termination. In 1951 the Menominees had been awarded \$8.5 million from Congress as settlement of a Menominee suit for past BIA mismanagement. In response to the award, the Menominee Advisory Council created an economic development program for the tribe to augment and improve reservation resources. They also provided for a \$1,000 per capita payment. In 1953 the Menominee General Council, responding to the appeals of tribal members, superseded the advisory council and provid-

ed a \$1,500 per capita for tribal members. After reviewing their development plan and per capita request, the BIA recommended against passage of both until the Menominees created a comprehensive termination strategy. In response to the dual pressures from the BIA and the tribal membership, and because the Menominees wished to have more control of their industries, the tribal leadership reluctantly agreed to draft termination legislation. Some of the leaders did not personally favor termination, but felt they acted in the best interests of tribal members who desired the just distribution of the BIA judgment.

Despite the Menominees' acquiescence to Watkins's demands, he pushed further. Watkins went to the Menominee reservation and told the members of the General Council that although the House of Representatives had approved the \$1,500 per capita payout, the Senate would not do so until the Menominees had adopted a resolution to end federal supervision within three years. One hour later, a General Council vote passed to end federal supervision within five years. This series of events illustrates the power Watkins and the BIA exerted over Indian communities: community members needed those per capita monies and so, without fully understanding the ramifications of the removal of federal supervision, they voted to accept this requirement in order to access the funds that rightly belonged to them.

The Menominees' descent from being largely self-sufficient administratively and financially prior to their termination in 1961 to being bankrupt and dependent on assistance a few years later proved disappointing to the termination advocates in Congress. Congress felt the Menominees were poised to become a shining example of successful independence. Instead, their downfall provided a cautionary tale for other tribes engaged in negotiating terms of their own termination.

Termination remains an event of unmatched importance in the Menominee experience, partially because of its reversal relatively soon after Congress terminated them. A group of Menominees who wanted to overturn the termination of the tribe formed the group The Determination of Rights and Unity for Menominee Shareholders (DRUMS). Led in large part by Ada Deer and influenced by the larger Indian rights movement, DRUMS brought urban Menominee Indians back to their traditional homeland and fought diligently for their tribe's restoration. DRUMS became active in 1970 and by 1973 had convinced Congress to restore the Menominee tribe.

The Klamath Case

The Klamaths also suffered irreparable damage from the termination policy. The Klamaths consisted of three bands of non-treaty Indians: the Klamaths, the Modocs, and the Yahooskin band of Snake Indians. The Klamath reservation's most valuable resource was its large coniferous forests. Congress considered the membership of the Klamath tribe well acculturated and in 1953 passed Public Law 587, a bill that provided for removal of federal supervision over the Klamaths no later than 1962.

Upon closer examination, however, the 2,000-member population was in no position to be terminated from federal supervision. Only one-third of the local adult male population held a year-round, full-time job, and only 60 percent of Klamath students in the local schools advanced to the next grade during the school year 1953–54. These statistics appeared to illustrate a group that lived marginally, was poorly educated, and lacked fundamental skills to succeed in a world without their reservation and federal supervision.

Nevertheless, termination preparations proceeded apace and Congress retained experts to calculate the per capita payout to tribal members. This payout dollar amount was based on the value of natural resources (primarily timber) held by the Klamaths and the value of human resources as calculated by the BIA. The appraisers valued the Klamath resources at \$120 million, and those who voted to terminate presumed their share would be calculated as a per capita portion of the \$120 million. Instead, by the time Klamath termination was enacted, timber values had fallen markedly, and the Klamaths' resources were valued at only \$91 million at the time of termination in 1961.

Klamath tribal citizens were offered the choice of continuing their tribal relationship and having their share of tribal lands placed in a tribal trust or of ending their tribal relationship and receiving a per capita payment of \$43,000. Approximately three-fourths of the Klamaths decided to accept the per capita, and the lands represented by their interests were sold to timber companies or the federal government. The liquidation of their timber assets left the local Klamath residents without a reservation and with a severely reduced land base that debilitated their economic status for years to come. Remaining members were to have been left with enough land and resources to become self-supporting, but lack of training and poor timber markets proved disastrous for those Klamaths who chose not to terminate and accept a cash payout. Many of those who accepted the per

capita distribution were unemployed and had little experience managing money, and a large portion of that population rapidly spent the payout. They returned home only to find that they had no rights to land and houses previously at their disposal. The Klamath reservation was sold off, the tribe terminated, and the Klamath people left divided over what had happened.

In fighting for restoration, many Klamath tribal members asserted that they did not understand that they were giving up their reservation when they accepted the payout. Tribal members and lawyers spent the next twenty-five years fighting to regain federal recognition for the Klamath tribe. In 1986 Congress finally passed the Klamath Restoration Act and restored federal services for the Klamaths.

Many other Oregon tribes also suffered through the policy of termination, but several have been successful in attaining restoration of their status. In addition to the Klamath tribes, each of the following tribes have recovered their recognized status and are endeavoring to reinvigorate their economies and cultures: the Confederated Tribes of the Siletz (restored 1977); the Cow Creek Band of Umpqua Indians (restored 1982); the Confederated Tribes of Grand Ronde (restored 1983); the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians (restored in 1984); and the Coquille Tribe (restored 1989).

The End of Termination

The termination era coincided with a national fear of communism and a drive for homogeneity throughout the United States, but the social and cultural notions of the era are perhaps less important than the political and economic motivations behind the policy. Congress, with the aid of the Department of the Interior and the BIA, had long been trying to mitigate federal responsibility to Indian tribes, and a wholesale dissolution of that responsibility was manifested in the termination policy. Between 1953 and 1960 Congress passed termination acts that affected more than one hundred Indian tribes or bands, many of whom have only recently been restored to fully recognized status.

While implementation of termination varied from tribe to tribe, the drive for the end of federal supervision was always led from Washington, D.C. Indian communities were allowed little control over the processes created for surrendering their land and resources, and they also had little say in the timing of their own termination. Congress acted impulsively in designating preparedness, and it often lacked accurate information about the tribes it terminated.

Consequently, restoration of tribal status required tremendous work for those nations that were terminated.

While termination was disastrous for the tribes that suffered through it, the policy did have one major lasting impact of a positive nature: it prompted the emergence of pan-Indian activist groups that changed the course of U.S. policy toward one of self-determination. The National Congress of American Indians (NCAI) was founded in 1944 to lobby for reform of the U.S. government's treatment of Indians. It was termination, however, that galvanized the organization, and the NCAI became a powerful voice against the government's policy in the 1950s. In 1961, 450 Indian leaders from more than ninety tribes met at the University of Chicago. The American Indian Chicago Conference, as it was called, issued a "Declaration of Indian Purpose" that among other things called for the government to abandon termination. That same year, young Indians from colleges and cities founded the National Indian Youth Council (NIYC) in Gallup, New Mexico. These groups, which began partly out of a concern for the termination policy, paved the way for the emergence of other activist groups, such as the American Indian Movement (AIM), in the 1960s and 1970s. Out of this activism came a call for the United States to allow Indian tribes to determine their own destinies.

Termination did not end so much as fade away. The denunciation of termination by Indians had a powerful and immediate impact on the U.S. government. Termination bills passed in the mid-1950s were seen through to their end, but even as early as 1956 administrative support of termination had begun to wane. In 1956 President Dwight D. Eisenhower (1953–1961) declared that the government would not terminate a tribe without its consent. The administration of John F. Kennedy (1961–1963) deemphasized termination as a viable policy, and no new termination bills passed during his administration. President Richard Nixon (1969–1974) declared in 1970 that termination as a federal objective was finished.

The tribes who have been restored often did not return to their original land base. Much of the land was sold in order to create enough capital for per capita payouts. Land, however, is not the most important victory in restoration. Instead, it is the recognition and acknowledgment that Indian identity still matters, that tribes remain sovereign nations, and that Native people still have a place in the United States.

See also *Allotment in Severalty; Assimilation and Acculturation; Collier, John; Deer, Ada E.; Determination of Rights and Unity for Menominee Stockholders (DRUMS); Eisenhower, Dwight D.; General Allotment Act (Dawes Act) of 1887; House Concurrent Resolution 108; Indian Claims Commission Act; Indian Reorganization Act of 1934; Myer, Dillon S.; National Congress of American Indians; National Indian Youth Council; Nixon, Richard M.; Self-Determination; Truman, Harry S.; Watkins, Arthur V.*

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BIBLIOGRAPHY

- Ames, David W., and Burton R. Fisher. "The Menominee Termination Crisis: Barriers in the Way of a Rapid Cultural Transition." *Human Organization* 18 (Fall 1959): 101–111.
- Burt, Larry. *Tribalism in Crisis: Federal Indian Policy, 1953–1961*. Albuquerque: University of New Mexico Press, 1982.
- Cohen, Felix S. "Erosion of Indian Rights, 1950–1953: A Case Study in Bureaucracy." *Yale Law Journal* 62 (February 1953): 348–390.
- Deloria, Vine, Jr. *American Indian Policy in the Twentieth Century*. Norman: University of Oklahoma Press, 1985.
- Deloria, Vine, Jr., and Clifford M. Lytle. *American Indians, American Justice*. Austin: University of Texas Press, 1983.
- Fixico, Donald L. *Termination and Relocation: Federal Indian Policy, 1945–1960*. Albuquerque: University of New Mexico Press, 1986.
- Hood, Susan. "Termination of the Klamath Tribe in Oregon." *Ethnohistory* 19 (Fall 1972): 379–392.
- Kickingbird, Kirke, and Karen Ducheneaux. *One Hundred Million Acres*. New York: Macmillan Publishing Co., Inc., 1973.
- Koppes, Clayton R. "From New Deal to Termination: Liberalism and Indian Policy 1933–1953." *Pacific Historical Review* 46 (November 1977): 543–566.
- La Farge, Oliver. "Termination of Federal Supervision: Disintegration and the American Indians." *Annals of the American Academy of Political and Social Science* 311 (May 1957): 41–46.
- . "Menominee Termination: From Reservation to Colony." *Human Organization* 31 (Fall 1972): 257–270.
- Metcalf, R. Warren. *Termination's Legacy: The Discarded Indians of Utah*. Lincoln: University of Nebraska Press, 2002.
- Orfield, Gary. *A Study of Termination Policy*. Chicago: University of Chicago Press, 1966.
- Peroff, Nicholas C. *Menominee DRUMS: Tribal Termination and Restoration, 1954–1974*. Norman: University of Oklahoma Press, 1982.
- Philp, Kenneth, ed. *Indian Self-Rule: First-Hand Accounts of Indian-White Relations from Roosevelt to Reagan*. Logan: Utah State University Press, 1995.
- . *Termination Revisited: American Indians on the Trail to Self-Determination, 1933–1953*. Lincoln: University of Nebraska Press, 1999.
- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Watkins, Arthur V. "Termination of Federal Supervision: The Removal of Restrictions over Indian Property and Person." *Annals of the American Academy of Political and Social Sciences* 311 (May 1957): 47–55.
- Wilkinson, Charles F. *American Indians, Time, and the Law*. New Haven, Conn.: Yale University Press, 1988.

Wilkinson, Charles F. and Eric R. Biggs. "The Evolution of the Termination Policy." *American Indian Law Review* 5 (1977): 139–184.

Terra Nullius

The Latin phrase *terra nullius* literally means "an earth that is null or void." It stands for the idea that lands that were not possessed or used by any person or nation, or were occupied by Indians but being used in a fashion that the European legal systems did not understand or approve, were considered to be empty, waste, or vacant, and thus available for taking by Euro-Americans. The principle justified the taking of American Indians' land because Euro-Americans would put the land to better uses. It is considered an element of the international law Doctrine of Discovery.

Euro-Americans often considered lands that were owned, occupied, and being actively used by Native people to be vacant or waste and available for Euro-American claims if they were not being used properly according to European and American law and culture. The hunting and gathering grounds of various tribes are classic examples of lands that Euro-Americans did not consider being owned or used because Indians were not farming the lands, or at least not farming them in the manner to which Euro-Americans were accustomed. Consequently, Euro-Americans considered many of the lands of Native Americans to be *terra nullius* and available for taking.

The courts have spoken approvingly twice on the idea of *terra nullius*: the U.S. Supreme Court in *Martin v. Waddell's Lessee* (1842) and the U.S. Circuit Court for the District of Arkansas in *United States v. Rogers* (1846).

Terra nullius was invoked extensively by English colonists in Australia to dispossess the lands of the Aborigines.

See also *Discovery, Doctrine of; International Law.*

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BIBLIOGRAPHY

- Calloway, Colin G. *Crown and Calumet: British-Indian Relations, 1783–1815*. Norman: University of Oklahoma Press, 1987.
- Martin v. Waddell's Lessee*, 41 U.S. (16 Pet.) 367, 409 (1842).
- Miller, Robert J. *Native America, Discovered and Conquered: Thomas Jefferson, Lewis and Clark, and Manifest Destiny*. Westport, Conn.: Praeger Publishers, 2006.
- Pagden, Anthony. *Lords of All the World: Ideologies of Empire in Spain, Britain, and France c. 1500–c. 1800*. New Haven, Conn.: Yale University Press, 1995.
- Simsarian, James. "The Acquisition of Legal Title to *Terra Nullius*." *Political Science Quarterly* 50, no. 3 (March 1938): 583–610.
- United States v. Rogers*, 45 U.S. (4 How.) 567, 572 (1846).

Texas

The annexation of Texas to the United States, formalized on February 19, 1846, presented the federal government with a peculiar problem for which it was not prepared. Previously, the military had entered new territories, subdued the local Indians, reduced them to dependency on the federal government, and concentrated them on reservations. Therefore, by the time a territory had achieved statehood, the military's primary duty was enforcement of federal laws governing Indian-white relations. With Texas, however, the federal government inherited an established political entity with the machinery of government already in place. It also inherited an Indian conflict that had been raging for more than a century, first with Spain, next with Mexico, and then with the Republic of Texas. No significant changes were made to the existing system of pacification, however, so Texas—during its first fifteen years of statehood and the subsequent four years of Civil War—was left largely on its own to manage its "Indian problem." Fundamental change in the federal position would not occur until the 1870s.

During the first extensive effort at European settlement in Texas in 1718, the territory was home to a vast number of indigenous people, ranging from the Caddo Confederacies of east Texas to the Coahuiltecan of south Texas. On the plains, European explorers found the indigenous Tonkawas, as well as tribes recently arrived from elsewhere in the northwest, most notably the Lipan Apaches, Comanches, Kiowas, and Kiowa Apaches. The Plains Indians ultimately would command the most attention in the formulation of Indian policy. Ironically, none of the three groups in Texas who now have their own lands—the Tiguas of Ysleta in El Paso, the Kickapoos of Eagle Pass on the Rio Grande, and the Alabamas and Coushattas of Livingston in East Texas—are indigenous to Texas. The Tiguas are from New Mexico, the Alabamas and Coushattas from the American Southeast, and the Kickapoos from the upper Midwest.

Colonial Policy, Expulsion, and War on the Plains

Disputes between Indians and non-Indians in Texas were well under way by 1821, when Stephen F. Austin led the first American settlers into the territory, which at the time was part of newly independent Mexico. The Americans settled in the valleys of the Brazos and Colorado rivers, establishing settlements and landholdings down toward the Gulf of Mexico. Initially, they had trouble with coastal tribes, most notably the Karankawas, and then, as they moved farther into

the interior, they clashed with Plains tribes, among them the Wacos and Tawakonis.

In response to their conflicts with various tribes, the colonists established a defense force, which ultimately evolved into the Texas Rangers. In addition, the colonists also began forming alliances with certain tribes on the premise that “the enemy of my enemy is my friend.” The most notable alliances were with the Lipans, and later the Tonkawas. These Native peoples also suffered depredations from more powerful Indians groups, and often served as scouts and auxiliaries during Ranger expeditions.

In the United States, meanwhile, the pressure of white settlement was either dispossessing many southern and mid-western tribes or prompting them to relocate farther west, beyond the reach of U.S. expansion. Delawares, Kickapoos, Shawnees, and others began moving across the border into Mexican Texas. When the Alabamas, Cherokees, and Coushattas proposed to live quietly and establish agricultural communities in the region, the Mexican government granted them a tract of land between the headwaters of the Trinity River and the Sabine, with the Cherokees adjacent to the Alabamas and Coushattas.

Throughout the remainder of the 1820s and early 1830s, settlers suppressed the smaller coastal and Plains tribes, leaving the Comanches as the major threat. Trouble with the Comanches erupted in early 1835 and continued into the 1870s. The Comanche economy had two supports, buffalo hunting and raiding. The Comanches raided settlements, partly in retaliation for settler incursions into their hunting grounds and partly for gain. The settlers conducted their own raids, often killing Indians indiscriminately.

A breakdown in relations between the Mexican government and white settlers led to the Texas War of Independence in 1835–1836. To avoid a two-front war, the Texas provisional government appointed commissions to treat with the Cherokees in the east and the Comanches on the Plains, to ensure their friendship or at least their neutrality. They formalized a treaty with the Cherokees and affiliated bands on February 23, 1836. Upon achieving independence, however, the newly established permanent government of Texas began looking for excuses to set aside the agreement. The underlying issue was new white colonization of some of the lands in East Texas that had been granted to the Indians under the treaty; the agreement with the Cherokees was abrogated, essentially on the grounds that the provisional government had made “promises” that it had neither the means nor the legal right to make. Despite Gen.

Sam Houston, the president of Texas, having personal feelings of kinship with the Cherokees, the first step was taken on the road toward Indian expulsion.

The Indians of Texas were by now completely surrounded by white settlement, and their rich bottomlands were attractive to potential settlers and developers. A series of treaties with the Texas government in the late 1830s and early 1840s only postponed the inevitable. Mexico, refusing to accept Texas independence, exacerbated the situation through covert efforts, inciting the tribes by arming and equipping them to challenge the Texans. The chain of events leading to the tribes’ expulsion began on May 18, 1839, when Rangers attacked a party of Indians about twenty-five miles from Austin. The dead included Manuel Flores, a Mexican agent who had on him a letter of instruction to unite the various tribes in a general war against Texas. According to the letter, the Cherokees had already agreed to work in conjunction with Mexico.

Whether the Cherokees were a party to such a conspiracy is debatable because up to this point, they had lived in peace with their white neighbors, aloof from the conflict. Nevertheless, the Mexican document provided the excuse that Texas president Mirabeau B. Lamar needed to declare war against the Cherokees. While the army mobilized, a commission met with Bowl, head chief of the Cherokees, to demand their removal from the country. The government offered to pay for any improvements the Indians had made, but would not pay for the land itself. Bowl replied that his people would fight, although defeat was a foregone conclusion. With that, negotiations ended, and units of the regular army and militia decisively defeated the Cherokees on July 15, 1839. The government then turned on the other “immigrant” tribes, and within ten days the Biloxis, Caddos, Delawares, Kickapoos, Muskogeas, and Shawnees also had been chased out of Texas and into U.S. territory. Only the Alabamas and Coushattas—too small to require any major land concessions—were allowed to remain but relocated to a less productive area.

Shortly after independence, the Texas republic entered into a series of treaties with the various Plains tribes, most notably the Lipans and Tonkawas, who had proven to be valuable allies against the Comanches. On May 29, 1838, Texas concluded a treaty with the Comanches themselves. It is questionable whether the Texans or the Comanches ever expected the treaty to succeed. Sporadic fighting had broken out three years earlier, and neither side appeared particularly interested in a resolution; conflict would continue into the

1870s. The Comanches carried numerous white women and children into captivity. On March 19, 1840, government representatives met with Comanche leaders in San Antonio to negotiate the release of captives. With both sides suspicious of the other, discussions quickly degenerated into recriminations and gunfire. When the shooting stopped, more than thirty Comanches had been killed, and almost thirty taken prisoner. Seven Texas soldiers and bystanders were killed and eight wounded.

The Council House Fight, as the confrontation was called, temporarily demoralized the Indians. By summer, however, the Comanches, encouraged by Mexican authorities, were set on revenge. On August 6, a large raiding party devastated homesteads around Victoria and two days later sacked the small port town of Linnville. On August 12, a detachment of Rangers, militia, and Tonkawa scouts intercepted and defeated the raiders at Plum Creek, near Austin, as they returned from the coast. Besides plunder from Linnville, the Texans found a substantial amount of equipment supplied by Mexico.

The Mexican threat and the republic's chaotic finances played key roles in Texas accepting annexation to the United States in 1845. For the moment, the main concern of the Texas government was the inevitable war with Mexico. In summer 1846, a Comanche raiding party swept through Texas and across the Rio Grande, prompting Brig. Gen. William J. Worth, the local American commander, to detach a company of Rangers to chase them down and defend the newly annexed Mexican communities.

Conflicting Policies

With the establishment of peace in the state, the Indians faced two conflicting policies: the Texas policy of expulsion or extermination and the U.S. policy of pacification and concentration on reservations. Although the federal government had established a chain of military posts, most were garrisoned with infantry, and therefore unable to protect the frontier against renewed Indian raids by mounted tribes. The Indians found the situation equally frustrating. Not grasping the implications of the U.S. annexation of Texas, they considered themselves at peace with the federal government but in a state of perpetual war against Texas and Mexico. They therefore failed to understand why federal agents objected to their ongoing raids. Under the Treaty of Guadalupe Hidalgo ending the U.S.-Mexican War, the United States had pledged to end depredations into Mexico by Indians from its side of the border. Thus, despite federal efforts, Indian raids

into Texas and Mexico continued, prompting retaliation from the settlers.

In an attempt to address the situation, the federal government convened a treaty council in 1853, at Fort Atkinson, Kansas, where the Comanches and their allies, the Kiowas and Plains Apaches, agreed to cease raids into Texas and Mexico and to release captives in exchange for an annual annuity worth \$18,000 for ten years. The treaty proved unworkable, however, because the Indians considered the restrictions on raiding to be absurd. In their view, they did not interfere in the government's wars against other tribes, so why did the government interfere with their raids into Texas and Mexico? This attitude, Washington's inability to grasp it, and the Texans' willingness to meet raid with raid led to the failure of Indian reservations to survive in Texas prior to the Civil War.

Due to the terms of annexation, the federal government had virtually no power of eminent domain in Texas, and therefore no authority to establish reservations. In 1854, however, the state agreed to establish a reserve, provided the federal government restricted the Indians to it. A 70,000-acre tract near the head of the Brazos River was surveyed by Capt. Randolph B. Marcy of the U.S. Army and Maj. Robert Simpson Neighbors, a Texan whose long experience with Indians had given him an understanding of their position. The tract was divided into two reservations, one for the Anadarkos, Wacos, and affiliated tribes below the military post of Fort Belknap on the Brazos proper, and the other for the Penateka Comanches on the Clear Fork of the Brazos, near the post of Camp Cooper.

The effort was doomed from the start. Neighbors had gained the respect of federal authorities and the Indians, but the settlers, who wanted the Indians completely removed or exterminated, hated him. Rations promised to the Indians failed to arrive, and the Indians grew restless. The Indians, once settled, tended to assume that the federal government would be entirely responsible for their provisioning and therefore made little effort to sustain themselves. Soldiers and settlers considered any mounted and armed Indian as suspect, and clashes erupted. In addition, there were allegations, some well founded, that some Indian raiding parties used the Camp Cooper reservation as a base and a refuge. The breaking point came on the night of December 27, 1858, when a band of whites slipped into the Brazos reservation and killed several Indians while they slept. The state appointed a commission to try and resolve the situation, but it was too late. Neighbors realized that he would have to

close the reservations and relocate the Indians to Oklahoma. The relocation began in June 1859 under Neighbors's close supervision. Neighbors himself felt the Indians would be better off beyond "the land of the Philistines." On September 1, he officially turned his charges over to the Wichita Agency in Oklahoma. After he returned to Fort Belknap, a disgruntled settler killed him.

As the United States moved toward Civil War, the Indian situation was such that approximately one-third of the U.S. Army was in Texas. Nevertheless, the federal government's failure to alleviate the problem was one factor in the decision of the Texans to leave the Union. Secession, however, meant the withdrawal of federal forces, so responsibility for frontier defense fell to the Confederate government. Locked in a struggle for survival, the Confederates were unable to offer an effective alternative; in fact, Confederate conscription stripped the state of able-bodied men. Texas experienced some of the worst raids in history during the Civil War. The Kiowa chief Satank later remarked that federal authorities had encouraged these raids because Texas had left the Union. Scholars estimate that from 1862 to 1865, some four hundred people were killed, wounded, or carried into captivity during Indian raids. The last major Indian fight of the Civil War occurred on January 8, 1865, when state troops in West Texas mistook a band of Kickapoos for Comanches and attacked them. The well-armed, disciplined Indians severely mauled the troops and then entered Mexico, forming the nucleus of the group now known as Mexican Kickapoos.

After the reestablishment of federal authority in June 1865, the situation in Texas bordered on chaos. Although the army's new mission there was enforcement of Reconstruction laws, the deteriorating frontier situation ultimately required action on that front. Treaties negotiated with southern Plains tribes on the Little Arkansas in 1865 and at Medicine Lodge, Kansas, in 1867 were only partially successful in pacifying the region, as were two military campaigns. The Red River War of 1874–1875 and subsequent mop-up operations ultimately decided matters. During these campaigns, Tonkawas, some Lipans, and Black Seminoles, descendants of Seminoles and runaway slaves, distinguished themselves as scouts. After the close of the Indian Wars, the majority of the remaining Tonkawas relocated in Oklahoma, while the Lipans scattered in Oklahoma, New Mexico, and Mexico. Descendants of the Black Seminoles still live in the vicinity of Brackettville, Texas, site of Fort Clark, which served as their base.

Modern Remnants

A substantial Comanche community lives in the Dallas area, and various Indians are scattered throughout the state. As noted above, the only landed tribes, however, are the Alabamas and Coshattas, Mexican Kickapoos, and Tiguas. The Tiguas are descended from Pueblo Indians who were driven to the El Paso area by the Spanish as they fled the Pueblo Revolt in New Mexico in 1680. Long thought to have disappeared, they were rediscovered in the local Hispanic community in the 1960s. They received state recognition in 1967 and federal recognition the following year. Their reservation is in Ysleta, a colonial mission community now absorbed into El Paso.

The present Alabama Coshatta reservation was created in 1854, when the state set aside 1,280 acres. In 1928 the federal government purchased an additional 3,071 acres, which provide revenue from oil, gas, and timber. Nevertheless, most members of the two tribes lived in poverty until the 1960s, when they began to develop a series of tourist events and permanent attractions. The Kickapoos settled in Mexico, where they periodically launched raids into Texas during the 1870s, until a series of U.S. military incursions suppressed them. In the 1940s, they began drifting back to the United States as migrant workers. Some thirty years later, they built a squatter village under the international bridge at Eagle Pass, Texas. They eventually obtained federal recognition and the establishment of a 125-acre reservation. Today, they divide their time between the Eagle Pass reservation and their homes in Mexico.

See also Bowl; *Civil War (1861–1865)*; *Comanche Wars (1835–1875)*; Houston, Sam; *Mexico, Indian Policy of*; Neighbors, Robert S.; *Red River War (1874–1875)*; *Reservations*; Spain, Indian Policy of; *U.S. Indian Policy: Congress and the Executive, 1803–1848*; *U.S. Indian Policy: Congress and the Executive, 1845–1877*; *U.S.-Mexican War (1846–1848)*.

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BIBLIOGRAPHY

- Brice, Donaly E. *The Great Comanche Raid: Boldest Indian Attack of the Texas Republic*. Austin: Eakin Press, 1987.
- Brown, John Henry. *The Indian Wars and Pioneers of Texas*. 1896. Reprint, Austin: State House Press, 1988.
- DeShields, James T. *Border Wars of Texas*. 1912. Reprint, Austin: State House Press, 1993.
- Fehrenbach, T. R. *Lone Star: A History of Texas and the Texans*. 1968. Reprint, New York: American Legacy Press, 1983.
- Metz, Leon Claire. *Roadside History of Texas*. Missoula, Mont.: Mountain Press Publishing Company, 1994.

- Missouri Democrat* (St. Louis), November 2, 1867.
- Mooney, James. *Calendar History of the Kiowa Indians*. 1898. Reprint, Washington, D.C.: Smithsonian Institution Press, 1979.
- Myers, James Will. Papers, Folder 10. Panhandle-Plains Historical Museum, Canyon, Texas.
- Neighbours [sic], Kenneth F. *Robert Simpson Neighbors and the Texas Frontier, 1836–1859*. Waco: Texian Press, 1975.
- Newcomb, W. W., Jr. *The Indians of Texas from Prehistoric to Modern Times*. Austin: University of Texas Press, 1961.
- Robinson, Charles M., III. *The Men Who Wear the Star: The Story of the Texas Rangers*. New York: Random House, 2000.
- Smith, David Paul. *Frontier Defense in the Civil War: Texas' Rangers and Rebels*. College Station: Texas A&M University Press, 1992.
- Wallace, Ernest, and E. Adamson Hoebel. *The Comanches: Lords of the South Plains*. Norman: University of Oklahoma Press, 1952.
- Webb, Walter Prescott. *The Texas Rangers: A Century of Frontier Defense*. 2nd ed. Austin: University of Texas Press, 1965.
- Wilbarger, J. W. *Indian Depredations in Texas*. 1889. Reprint, Austin: Eakin Press and Statehouse Books, 1985.
- Winfrey, Dorman H., and James M. Day, eds. *The Indian Papers of Texas and the Southwest, 1825–1916*. 4 vols. 1966. Reprint, Austin: Texas State Historical Association, 1995.

Thom, Mel

Melvin Daris Thom (1938–1984) (Walker River Paiute) was president (1961–1965) and executive director (1965–1968) of the National Indian Youth Council (NIYC) and an advocate and activist for tribal self-determination.

Thom was the son of a tribal chair and grew up on a reservation in Nevada. While attending college at Brigham Young University, Thom was elected president of the Southwestern Regional Indian Youth Council (1959–1960). After attending the American Indian Chicago Conference in 1961, he helped found, and became the first president of, the NIYC. Thom wrote and spoke often of his vision “for a greater Indian America.” As he became more radical, he wrote in the NIYC newsletter about carrying out an “Indian war” with modern tactics such as direct action and political activism.

In early 1964 Thom carried out this plan as he and others launched the fish-ins campaign in Washington State. Later that year, he was elected to his tribal council, and in 1966 he became tribal chair. Thom and other NIYC leaders and members became directors of community action programs in tribal communities. In 1966 and 1967 he sat on the board of the United Scholarship Service, and the commissioner of Indian affairs appointed Thom to the National Indian Education Advisory Committee in 1967. During the summer of 1968, Thom oversaw the NIYC’s efforts as Indian coordinator in the Poor People’s Campaign, and from 1968

to 1969 he was president of the Coalition of American Indian Citizens. Thom stepped down from his position as tribal chair in 1974.

See also *Indian Community Action Programs*; *Indian Rights Movements*; *National Indian Youth Council*; *Self-Determination*.

Sterling Fluharty

BIBLIOGRAPHY

- Smith, Paul Chaat, and Robert Allen Warrior. *Like a Hurricane: The Indian Movement from Alcatraz to Wounded Knee*. New York: New Press, 1996.
- Steiner, Stan. *The New Indians*. New York: Delta, 1968.

Thomas, William Holland

William Holland Thomas (1805–1893) played a prominent role in the legal efforts of the Eastern Cherokees against North Carolina and the United States. Thomas had learned the Cherokee language from a Cherokee coworker at a trading post. As a teenager, he developed a close relationship with Yonaguska (Drowning Bear), the leader of a number of western North Carolina Cherokees, who lived outside the Cherokee Nation. These Eastern Cherokees (now known as the Eastern Band of Cherokee Indians) had obtained the right to live in North Carolina as American citizens in 1817 and 1819 treaties with the United States. As early as 1831, Thomas became their legal representative and helped secure their right to remain in North Carolina when the main body of the Cherokee Nation was removed to the Indian Territory in 1838–1839. In 1839 he was made a chief at the suggestion of the dying Yonaguska. Serving as a North Carolina state senator from 1848 to 1860, he continued to champion the Cherokee cause.

Thomas used his own money to purchase more than 50,000 acres in western North Carolina for the Cherokees, including most of what is now the Qualla reservation of the Eastern Band of Cherokee Indians. Through personal meetings with President James K. Polk and a number of U.S. senators, Thomas was also able to secure concessions for the Eastern Cherokees in an 1846 treaty between the United States and the Cherokee Nation west of the Mississippi. This treaty guaranteed the Eastern Cherokees their proportionate right to moneys owed the Cherokees, a stipulation that became the cornerstone of later Eastern Band claims against the United States and the Cherokee Nation.

During the Civil War, Thomas organized two Cherokee companies for the Confederate Army. After the war and in

appreciation for their service, North Carolina finally and formally acknowledged the Cherokees' right to remain in the state. The Eastern Cherokees' undisputed title to their land came only after Thomas testified against his own property interests in a series of complex legal proceedings filed against him by the Cherokees. Thomas's mental capacities failed him late in his life. He died in the state mental hospital in Morganton, North Carolina.

See also *Citizenship: United States and State; New Echota (1835), Treaty of; Removal.*

William Anderson

BIBLIOGRAPHY

- Godbold, E. Stanly, and Mattie U. Russell. *Confederate Colonel and Cherokee Chief: The Life of William Holland Thomas*. Knoxville: University of Tennessee Press, 1990.
- Finger, John R. *The Eastern Band of Cherokee Indians, 1819–1900*. Knoxville: University of Tennessee Press, 1984.

Thompson, Morris

Morris Thompson (1939–2000; Athabascan), commissioner of Indian affairs from 1973 to 1976, was the first Alaska Native and the youngest person to head the Bureau of Indian Affairs (BIA). His public service career began in state government. Between 1969 and 1971, he was an assistant to the secretary of the interior. In 1971 he became the BIA's Juneau area director. Thompson was only 34 when he was appointed commissioner of Indian affairs in 1973. His accomplishments included reorganizing the bureau and helping to implement the Indian Self-Determination and Education Assistance Act. In 1976 he returned to Alaska and worked to improve Alaska Native regional corporations. He died in a plane crash in 2000.

See also *Indian Self-Determination and Education Assistance Act.*

Sterling Fluharty

BIBLIOGRAPHY

- www.morristhompsoncenter.org/morrisThompson.html.
- Officer, James E. "The Bureau of Indian Affairs Since 1945: A Reassessment." *Annals of the American Academy of Political and Social Science* 436 (March 1978): 61–72.

Tobacco

Tobacco, a wild or cultivated plant that grows throughout the Americas, has played a critical role in Native American history and intertribal and international relations. It is a sig-

nificant element in Indian religious rites and beliefs and has served as one of the most important items of trade. Tobacco, either smoked or in leaf form, also has been used to signify a wish for peace, to enhance social occasions, and as part of diplomatic rituals.

In the nightshade family, tobacco is found in many forms in the Americas. The two most popular species are *Nicotiana rustica* and *Nicotiana tabacum*. The former is cultivated widely, including in the eastern woodlands, and the latter has been cultivated primarily in tropical regions. These two species have the highest amounts of nicotine, the primary alkaloid in tobacco and one that produces physiological changes in the body.

By the time Europeans made contact, Native Americans had experimented with various methods of consuming tobacco and had developed the technology necessary for its use. Indians practiced five principal methods of tobacco consumption: smoking, chewing, drinking, snuff, and enemas. Smoking proved by far the most popular style of tobacco use, perhaps because it is also the most efficient and potent way of absorbing nicotine. While Indians in South and Central America preferred to smoke tobacco in cigars, North American Indians mostly used pipes.

Special social and diplomatic occasions were elevated by tobacco's mystical qualities. Any agreement or obligation sealed in the presence of tobacco, typically by passing around a pipe, made it binding. Native American societies, especially in the eastern woodlands, incorporated this symbolic function of tobacco into an elaborate ritual known as the *calumet*, one of the most important formalized uses of the pipe. This ceremony consisted primarily in an exchange of political obligations or goods. It could often be accompanied by a dance and singing. The pipe itself, typically highly elaborate in decoration or structure or both, would represent peace or war. The symbolic value of the pipe derived partly from the close association between its stem and the shaman's device for sucking illnesses from patients. In later years, and as long as the United States conducted treaty negotiations with Indian tribes, U.S. representatives followed the practice of smoking the peace pipe with their Native counterparts.

In the sixteenth century, Europeans identified tobacco as an herbal remedy for a wide range of ailments. In 1571 Spanish physician Nicolas Monardes published a celebrated and widely read history of medicinal plants of the New World. Monardes identified three main methods of using tobacco: green wet leaves, usually warmed, as topical applications for pain relief; leaves mixed with lime that when

chewed could alleviate hunger and thirst; and dried leaves that when smoked could counteract weariness and induce relaxation. Much of the medical literature of the next two centuries simply repeated Monardes's advice, occasionally with refinements such as pinpointing who should and should not use tobacco.

The English had started smoking tobacco in the late sixteenth century. Because they obtained tobacco through capture, trade with foreigners, and smuggling, it was both scarce and expensive. The English settlers sent to Jamestown by the Virginia Company of London were instructed to find a good source of wealth. Unable to locate gold or a passage to Asia, they settled on tobacco. Native Virginian tobacco proved too harsh for the European market, so Jamestown colonist John Rolfe began experimenting with other strains in 1612. Rolfe planted some seeds of *Nicotiana tabacum* that he had obtained from Trinidad, in the Caribbean, and spent two growing seasons learning to raise tobacco, a difficult plant to produce. He spent two more years mastering the arduous curing process. In 1614 Rolfe married Pocahontas, a local Powhatan Indian, and learned some of his planting and curing skills from his Native in-laws. In 1616 Rolfe took the first commercial shipment of Virginian tobacco to London. Rolfe's tobacco ensured the success of Jamestown.

As the tobacco plantations encroached on Native American lands, the Indians retaliated, and a 1622 attack left about a third of the colonists dead. Despite the deteriorating relationship between the colonists and the Native Americans, Jamestown planters sent 60,000 pounds (27,000 kilograms) of tobacco to England in 1622. By 1627 the annual shipment totaled 500,000 pounds (225,000 kilograms). By the middle of the century it had become the most important American crop and had helped lead to the development of chattel slavery and the African slave trade in the colonies. By the twenty-first century, tobacco had become the most widely grown non-food crop in the world.

Many Indians in recent years have viewed tobacco as both a blessing and a curse, bringing revenue yet jeopardizing health. Native Americans had the highest rate of cigarette smoking in the United States and the worst related health consequences among any U.S. ethnic group, with 33 percent of Native Americans categorized as smokers in 2005. Some Indians have opposed state and local no-smoking policies because of ceremonial tobacco use. Prior to the rise of Native-run casinos, many Indian nations sold tax-free cigarettes as a major revenue source. Some Native Americans, including the Lakotas (Sioux), the Sacs and Foxes, and the

Anishinabek (Ojibwa), continue to sell cigarettes and have moved to online sales. Indian-owned Internet sites sell cigarettes for about one-fifth of the price at grocery stores and generate millions of dollars of income.

See also *Smoke Shops; Treaty Making: Protocols.*

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BIBLIOGRAPHY

- Gately, Iain. *Tobacco: The Story of How Tobacco Seduced the World*. New York: Grove Press, 2001.
- Goodman, Jordan. *Tobacco in History: The Cultures of Dependence*. New York: Routledge, 1993.
- Winter, Joseph C., ed. *Tobacco Use by Native North Americans*. Norman: University of Oklahoma Press, 2000.

Trade and Intercourse Acts

The Trade and Intercourse Acts, a series of statutes now codified as amended at Title 25, Section 177 of the United States Code, served as the first broad legislative statement of federal Indian law and policy. The acts, which prohibited any land transactions with Indian tribes without congressional approval, regulated all commerce with Indians and Indian tribes, and provided for the punishment of non-Indians who committed crimes in Indian Country. They continue to play a major role in modern Indian law and policy. Also known as the Nonintercourse Acts, they provide the legal basis for many of the Indian land claims in the northeastern United States and elsewhere.

The major precursor to the Trade and Intercourse Acts was the British royal Proclamation of 1763, which prohibited American colonists from purchasing Indian lands or from engaging in any kind of commerce with Indians and Indian tribes without the consent of the king or his delegates. The proclamation contributed a great deal to the animosity between the Americans and the British that led to the American Revolution (1776–1783). The United States' first codification of Indian affairs, Article IX of the Articles of Confederation, maintained the primacy of the national government in Indian affairs, but was undermined by a proviso that allowed states to legislate in the field as well. The Constitution's Indian Commerce Clause offered a clearer provision, in that it provided Congress with exclusive power to regulate trade with the Indian tribes. Subsequent U.S. Supreme Court decisions construed the clause to mean that Congress held "plenary" or complete control over Indian affairs.

In 1790 Congress enacted the first Trade and Intercourse Act, implementing the authority it had acquired in the Indian Commerce Clause. The statute provided for federal regulation of all commerce and other “intercourse” with Indians and Indian tribes. It provided a system of licensing for traders and set penalties for those who traded to Indians without a license. The law also prohibited purchases of Indian lands except through the means of public treaties by the United States. In order to eliminate trespassing on Indian territory and to reduce tensions between Indians and non-Indians, the act provided punishments for crimes committed by non-Indians against Indians in Indian Country.

The first acts were temporary, lasting around three years. The first extension, in 1793, offered additional protections for crimes against Indians and authorized the president to provide goods and money to tribes to promote peace and encourage their civilization. Section 4 of the 1793 act flatly voided any land sale by an Indian or Indian tribe unless it was done under explicit federal authority. The 1793 version also provided the president with the authority to appoint temporary agents to reside among the Indians.

The 1796 extension provided criminal penalties for other violations of the acts and attempted to end private retributions for crimes. The act set death as the penalty for anyone who went into Indian Country and committed a murder there, and provided that the culprit or the United States would reimburse Indians for stolen or destroyed property. Similarly, tribes were to reimburse the non-Indian victims of crimes committed by their citizens. The 1796 act also offered the first specific definition of “Indian Country.” Later, in 1834, the Trade and Intercourse law expanded the Indian Country to include “All that part of the United States west of the Mississippi, and not within the states of Missouri and Louisiana, or the Territory of Arkansas, and also, that part of the United States east of the Mississippi river, and not within a state to which the Indian title has not been extinguished.”

While the 1799 act offered no major changes, the 1802 one made the acts permanent and delegated authority to the president to regulate the sale and distribution of alcohol and liquors in Indian Country. In addition, it authorized the expenditure of federal funds for the purpose of promoting “civilization among the friendly tribes.” Many of the provisions in the acts originated with Indian treaty provisions negotiated during the period and served to implement federal responsibilities under the treaties. One critical area of importance for Indian tribes at that time was the continuing

attacks and infringements on tribal lands and Indian people by individual American citizens. Taken together, the Trade and Intercourse Acts provided the foundations of the nascent American government’s federal Indian law and policy.

The Supreme Court in *Johnson v. M’Intosh*, 21 U.S. 543 (1823) relied heavily on the Trade and Intercourse Acts in its decision applying the doctrine of discovery to the United States. The case involved Indian land sales to individuals in 1773 and 1775, before the Trade and Intercourse Acts, but Chief Justice John Marshall’s opinion bridged the gap by adopting the major policy of the acts as federal common law. The main import of *Johnson*, the doctrine of discovery, and the Trade and Intercourse Acts was that the federal government would not recognize the original property interests of Indians and Indian tribes. The Court in *Johnson* recognized that tribes held a right of possession over their lands, but not the complete fee title. The doctrine of discovery’s main tenet was that the “discovering” European nation had the right of “preemption” over Indian lands, meaning that only that nation had the right to purchase lands from Indian tribes. The United States acquired the British right of preemption over the latter’s North American lands with its victory in the American Revolutionary War.

Federal Power over Tribal Lands

The rule that only the federal government could authorize the conveyance or sale of Indian lands extended enormous federal power over the tribes and their territory. All other owners of private property in the Western legal tradition have the presumptive authority to sell their own lands, with the exception of Indians and Indian tribes. The federal government’s exclusive authority in this area allowed the United States to dictate the terms upon which the dispossession of Indian lands would occur. As Indian tribes ceded lands to the United States through treaty provisions, the United States controlled the first alienation of the lands to American citizens and business entities and used the power to raise significant federal revenue. Over time, the Supreme Court’s view of federal authority in this field expanded to allow Congress to alienate Indian lands *without* tribal consent at all by abrogating Indian treaties.

In the modern era Congress has loosened the restrictions on encumbrances of Indian lands, but the ban on the sale or alienation of the land remains in place. Title 25, Section 81(b) of the United States Code authorizes Indian tribes to encumber (such as use the land for collateral) for less than seven years without federal consent. A large portion of

Indian lands in the late twentieth and early twenty-first centuries was owned in trust by the federal government for the benefit of individual Indians and Indian tribes. The federal ownership of these lands makes it difficult to administer the property, but has been effective in preventing alienation of the lands without tribal consent.

Indian Land Claims

The Trade and Intercourse Acts voided any land sales by Indians and Indian tribes to states or individuals. Despite the clear prohibition, states such as New York continued to enter into treaties and land purchase agreements with Indian tribes after 1790 and into the 1800s. In the late 1960s the Oneida Indian Nation of New York filed a test case land claim, seeking back rent from the state and two counties for a small parcel of land that the tribe sold to the state in the 1790s, in violation of the Trade and Intercourse Acts. Meanwhile, other tribes in Maine, Massachusetts, Connecticut, and Rhode Island began to explore land claims cases under a similar theory. In 1974 the Supreme Court held in *Oneida Indian Nation v. County of Oneida, New York*, 414 U.S. 661, that the claim had legal merit and remanded the case back to the federal district court for trial. In 1985 the Court upheld a trial verdict in favor of the Oneida Nation, but left open several tangential legal questions until a later date. In 1975 the First Circuit held in *Passamaquoddy Tribe v. Morton*, 528 F.2d 370 (1st Cir.), that a non-federally recognized Indian tribe could bring Indian land claims under the acts so long as they were able to show continuing tribal existence and meet other criteria.

While New York refused to settle most of the major land claims against it (with the twenty-first century settlements with the Oneida Indian Nation and the Seneca Nation of Indians over smaller land claims being notable exceptions), Maine, Massachusetts, Rhode Island, and Connecticut each negotiated a settlement with the Indian tribes and the federal government. These settlements, approved and implemented by acts of Congress, served to federally recognize several Indian tribes in these states, authorize the purchase of Indian lands for the purpose of establishing Indian reservations, and delineate jurisdictional responsibilities.

In 2005 the Oneida land claims again reached the Supreme Court. In *City of Sherrill v. Oneida Indian Nation*, 544 U.S. 197, the Court held that Indian lands repurchased by the Nation did not automatically revert to reservation status and were not protected by tribal sovereignty or the Trade and Intercourse Acts from state taxation. The Court took up

a question left open in its previous Oneida decisions and held that the state and others could raise the defense of laches, or equitable relief, against Indian land claims. In short, if a significant period of time has passed and the Court agrees that the current landholders have sufficiently relied upon the dispossession of Indian lands, then the lower courts may apply this defense to protect the “settled expectations” of non-Indian property owners and the state and local governments (*City of Sherrill*, 218). Shortly thereafter, the Second Circuit struck down the major portion of the Cayuga Indian Nation’s land claims. Federal courts have also struck down the land claims of the Shinnecock Indian Nation and the Golden Hill Indians of the Paugussett Indian Nation, non-federally recognized tribes, on the same or similar theories.

See also *Crime, Regulating in Indian Country; Indian Country; Indian Trade, Regulating; Johnson v. M’Intosh* (1823); *Land Claims Settlement Acts; Proclamation of 1763; Seneca Land Rights; U.S. Indian Policy: Congress and the Executive, 1775–1803.*

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BIBLIOGRAPHY

- City of Sherrill, N.Y. v. Oneida Indian Nation of N.Y.*, 544 U.S. 197 (2005).
- Clinton, Robert N., and Margaret Tobey Hotopp. “Judicial Enforcement of the Federal Restraints on Alienation of Indian Land: The Origins of the Eastern Land Claims.” *Maine Law Review* 31 (1979): 17–90.
- County of Oneida, N.Y. v. Oneida Indian Nation of N.Y.*, 470 U.S. 226 (1985).
- Johnson v. M’Intosh*, 21 U.S. 543 (1823).
- Newton, Nell Jessup, ed. *Cohen’s Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005.
- Oneida Indian Nation of N.Y. v. County of Oneida, N.Y.*, 414 U.S. 661 (1974).
- Prucha, Francis Paul. *American Indian Policy in the Formative Years: The Indian Trade and Intercourse Acts, 1790–1834*. Cambridge, Mass.: Harvard University Press, 1962.
- Singel, Wenona T., and Matthew L. M. Fletcher. “Power, Authority, and Tribal Property.” *Tulsa Law Review* 41 (Fall 2005): 21–50.

Trademarks and Trade Names

Trademarks are words, logos, symbols, or other indicia that serve as a source designator for goods and services. Trade names are the names of companies, corporations, partnerships, and other business entities. Numerous trademarks and trade names containing Native American references have been used or registered in the United States by non-American Indian parties. These names cover a broad range of goods and services, including the Jeep Grand

Cherokee, Apache Software, Zuni Financial Services, Calumet Baking Powder, and Hopi Blue Popcorn. Marks containing indigenous symbols include the Zia Sun sign, which is represented on the flag of New Mexico and has been adopted by some commercial establishments. In addition, numerous marks have contained exaggerated, caricatured, disparaging, or inappropriate depictions of Indian peoples and customs, such as caricatured “wooden Indians” used as trademarks for cigars and tobacco. Various sports teams have names indicating an affiliation with Native Americans, as well as exaggerated sports mascots. Since the 1960s, efforts to challenge such unauthorized or deculturizing uses have increased, but have met with limited success.

The existence, ownership, and use of trademarks in interstate commerce is governed by the Lanham Act of 1946. To qualify as a trademark, a symbol must be capable of serving as a source designator. It cannot be generic, such as “aspirin,” but must distinguish the goods or services of one person (or undertaking) from those of another. There is currently no express prohibition under the Lanham Act against the unauthorized use or registration by others of Native American names, insignias, or symbols. The Lanham Act, however, does prohibit the registration of a mark which “may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute.”

This provision has been used to challenge unauthorized and disparaging uses of American Indian-based marks; the results have been inconsistent. An attempt to register the mark “APACHE” for cigarettes was successfully challenged on the grounds that the mark falsely suggested a connection with federally recognized Apache Native American tribes. The United States Patent and Trademark Office (USPTO) found such a connection likely because many Native American tribes run smoke shops and engage in large-scale marketing and manufacturing of cigarettes. (*In re Julie White*, TTAB 2004.) By contrast, recent attempts to challenge the use of the mark “Washington Redskins” for the professional football team as disparaging have been largely unavailing. Although the USPTO ordered six registrations for “Washington Redskins” cancelled on the grounds that “a substantial composite of the general public finds the word ‘redskin(s)’ to be a derogatory term of reference for Native Americans,” this decision was subsequently overturned by a federal circuit court and the case was remanded for a determination as to whether the claims were time barred because the marks had been used without challenge since the 1960s.

(*Pro-Football, Inc. v. Harjo*, D.C. Cir. 2005). On remand, the trial court determined that the petitioner’s claim was time barred because he had “unreasonably delayed” bringing the petition. (*Pro-Football, Inc. v. Harjo*, D.D.C. 2008).

Challenges to attempts to register the mark “Crazy Horse” for malt liquor were more successful because the USPTO found the mark disparaging. Such a finding, however, did not prevent the Hornell Brewing Company from continuing to use the mark despite strong protests, including claims that such use violated customary Lakota law involving rights of publicity. In 1992 Congress enacted a law banning the national sale of any alcohol bearing the Crazy Horse label. The law was struck down a year later as a violation of Hornell’s First Amendment rights (*Hornell Brewing Co., Inc. v. Brady*, E.D.N.Y. 1993). Strohs Brewing Company ultimately acquired the Crazy Horse label and settled the dispute with the estate of Tasunke Witko (Crazy Horse) and the Rosebud Sioux Tribe in 2001. The settlement included a public apology as well as a return of all rights in the Crazy Horse mark.

Efforts to provide better protection for Native American trademark rights were increased in 1998 when the USPTO was required by Congress to study how to better protect the official insignia of Native American tribes. Although the USPTO recommended against amending the Lanham Act, it supported the creation of a database containing the “official insignia” of all state and federally recognized Native American tribes. This database must be consulted as part of the official search by trademark examiners for conflicting marks. The existence of a conflicting insignia, however, does not automatically prevent registration of the third-party mark. Such registration is only prevented when the mark at issue is either disparaging or falsely suggests a connection with the relevant tribe. The protection offered by this database is fairly narrow; only official insignias, defined as “the flag or coat of arms or other emblem or device of any federally or state recognized Native American Tribe, as adopted by tribal resolution and notified to the USPTO,” are registrable in the database. Tribal names, symbols, and other Native American references are excluded.

Some tribes have registered names and symbols as authentication marks for their goods and services. These marks can then be used to prevent third parties from marketing fake goods as “authentic” Indian goods. Challenges to such illegal authentication claims have generally met with greater success. They may be brought under both the Lanham Act and the Indian Arts and Crafts Act, which pro-

hibit the marketing of goods using marks or other indicia that falsely suggest the goods are either Indian made or otherwise connected with a Native American group or artist.

Efforts to prohibit the unauthorized use of a broader range of culturally related terms such as “wampum” or “dream catcher” and “soul catcher” designs largely have been unsuccessful. This may change if international efforts to establish *sui generis* protection for “traditional knowledge” are successful. “Traditional knowledge” is generally defined as tradition-based indigenous practices, works, rituals, and beliefs handed down across generations that have cultural significance for an identifiable indigenous group and may include culturally significant terms and symbols.

See also *Indian Arts and Crafts Act; Mascots.*

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BIBLIOGRAPHY

- Long, Doris Estelle. “The Protection of Information Technology in a Culturally Diverse Marketplace.” *The John Marshall Journal of Computer & Information Law* 15 (Fall 1996): 129–170.
- Moore, Kimberly. “The Washington Redskins Case and the Doctrine of Disparagement: How Politically Correct Must a Trademark Be?” *Pepperdine Law Review* 22 (December 1994): 7–55.
- Scafidi, Susan. *Who Owns Culture? Appropriation and Authenticity in American Law*. New Brunswick, N.J.: Rutgers University Press, 2005.
- U.S. Patent and Trademark Office. “Establishment of a Database Containing the Official Insignia of Federally Recognized Native American Tribes.” *USPTO Official Gazette*, February 6, 2001.
- . *Report on the Official Insignia of Native American Tribes*. September 30, 1999. www.uspto.gov/web/offices/com/sol/notices/insgstdy.pdf.
- World Intellectual Property Organization. “The Protection of Traditional Cultural Expressions/Expressions of Folklore: Revised Objectives and Principles.” WIPO/GRTKF/IC/9/4. 2006.
- . “The Protection of Traditional Knowledge: Revised Objectives and Principles.” WIPO/GRTKF/IC/9/5. 2006.

Trail of Broken Treaties (1972)

The Trail of Broken Treaties, also known as the March on Washington, was one of the most publicized of a number of occupations and protests by Indian activists that began with the occupation of Alcatraz Island in 1969 and ended with the occupation of Wounded Knee in 1973. This brief period marked the rise to national prominence of the Red Power movement and, in retrospect, served as the high-water mark of the American Indian Movement (AIM). During the protest, Native activists seized and occupied the Bureau of Indian Affairs (BIA) office in Washington, D.C.

The idea for a Trail of Broken Treaties began at the Sioux Rosebud reservation in 1972. Robert Burnette, a member of

AIM, conceived the project. The plan called for Indians from all over the country to converge on Washington, D.C., just before the November 1972 presidential election. On September 21, 1972, Richard Oakes, one of the leaders of the Indian seizure of Alcatraz Island in 1969, had been murdered in Sonoma County in California. Oakes’s death served as one of the rallying points for publicizing the caravan. Indian participants from the Southwest followed the Cherokee Trail of Tears in reverse, and the Lakotas (Sioux) passed by Wounded Knee, the sight of the infamous massacre in 1890.

Hank Adams, an Assiniboine-Sioux from Wolf Point on the Fort Peck reservation, was instrumental to the Trail of Broken Treaties. Adams, an experienced activist, was committed to fighting discrimination against Indian people. Adams had been shot by two assailants while protesting for Native fishing rights at Franks Landing, near the Puyallup River in Washington State. He was instrumental in the founding of the Survival of American Indian Association before playing a key role in the protest in Washington, D.C. In 1971 Adams chaired a committee that had framed a fifteen-point program for a new national Indian policy. These fifteen points became the foundation for a set of twenty demands presented to government officials on November 2, 1972, during the Trail of Broken Treaties protest. Influenced by Oakes’s death, the protestors included in their demands a call to make the killing of an Indian a federal offense.

Prior to their arrival in Washington, D.C., AIM leaders had contacted the White House and demanded an audience with President Richard M. Nixon. Their intent was to present to the president directly the list of demands. The White House informed AIM leaders that Nixon would be out of the country on the day selected. The organizers of the Trail of Broken Treaties had also asked BIA officials to provide food and hotel accommodations for the protestors. However, no such arrangements were made. Ultimately, the large contingent of Indian activists found themselves in Washington, D.C., with no audience with the president, no food, and no shelter. From the activists’ point of view, these shortcomings represented yet another breach of faith on the part of the U.S. government. In protest, they occupied the BIA headquarters building.

The Indians occupied the BIA building for seven days. Desks, typewriters, and filing cabinets were stacked against doors while the occupiers, who had come unarmed, began crafting makeshift weapons. Eventually, the government promised to review the activists’ list of demands and to



A large gathering of protestors converged on Washington, D.C., in 1972, in what is called the Trail of Broken Treaties. They gathered at the headquarters of the Bureau of Indian Affairs and presented a list of twenty civil rights demands.

refrain from making arrests. The government also agreed to pay the Indians' expenses home. Some Natives considered the occupation a great moral victory; critics of the seizure condemned the fact that the protestors had ransacked government offices.

Following the occupation, federal officials set out to assess the damage to the BIA building. Estimates of the damage ranged from \$25,000 to as much as \$2 million. Most of that damage was to desks, typewriters, and carpets. In addition, paintings of famous chiefs that had been hanging on the walls in the headquarters had been either vandalized or stolen; the protestors claimed that they were simply repatriating the images of their ancestors.

A great number of government documents were removed from file cabinets and taken back to the reservations when the occupiers returned home. AIM leaders said that the documents were seized so that they could be examined for proof of illegal land takings and broken treaties by the government. Most of the material was never returned to the BIA.

See also Adams, Hank; *Alcatraz Island, Seizure of*; *American Indian Movement (AIM)*; *Bureau of Indian Affairs (BIA)*; Oakes, Richard; *Wounded Knee Massacre (1890)*; *Wounded Knee (1973)*, *Occupation of*.

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BIBLIOGRAPHY

- Cobb, Daniel M., and Loretta Fowler, eds. *Beyond Red Power: American Indian Politics and Activism Since 1900*. Santa Fe, N.Mex.: School of Advance Research Press, 2007.
- Johnson, Troy R. *The Occupation of Alcatraz Island: Indian Self-Determination and the Rise of Indian Activism*. Urbana: University of Illinois Press, 1996.
- Smith, Paul Chaat, and Robert Allen Warrior. *Like A Hurricane: The Indian Movement from Alcatraz to Wounded Knee*. New York: New Press, 1996.

Trail of Tears (1838–1839)

The Trail of Tears, or “the trail where they cried” as it is sometimes called, refers to the grueling journeys undertaken by the Cherokees west across the Mississippi River to the

Indian Territory in what is now Oklahoma. The other major southeastern Native American tribes—the Choctaw, Chickasaw, Creek, and Seminole—were also removed to the Indian Territory, and their relocations are sometimes referred to as “the Trail of Tears,” a phrase developed long after the actual removal of the tribes.

During the 1830s and 1840s, entire Indian nations, in large groups with members numbering up to a thousand or more, traveled hundreds of miles on foot and by boat, in summer and winter, without adequate provisions. Overall thousands died from privation, disease, and spoiled rations on the Trail of Tears. According to one scholar, the Cherokee, Creek, and Seminole populations declined by somewhere between 25 and 50 percent as a consequence of their removal. The Choctaws lost perhaps as much as 15 percent of their population.

Interest in removing Indians from their ancestral lands to new territories opened up by the United States began soon after the Louisiana Purchase (1803). Some members of Indian tribes, such as the Cherokees and Choctaws, moved west across the Mississippi and settled, farmed, and hunted in what became Arkansas Territory in the early nineteenth century. The majority of the five major tribes of the Southeast, however, remained in the region until the 1830s. The removal policy and the Trail of Tears were the result of the demand for land prompted by the emergence of the cotton economy in the South after the War of 1812. As white southerners settled these areas they demanded that Native Americans be removed from their vicinity.

In the 1820s the state governments in Alabama, Georgia, Mississippi, and Tennessee brought intense pressure on the federal government to remove the Indians and extinguish their property rights. In 1830 Congress passed the Indian Removal Act, granting the president the authority to negotiate treaties in which the tribes in the East would exchange their lands and remove to new territories west of the Mississippi River. President Andrew Jackson quickly acted to exercise this authority. In 1831 the Choctaws began the move west to the southeastern portion of the Indian Territory. The Creek Indians moved west in waves, first in 1835 and then a few years later by force because they suffered defeat at the hands of the United States in the Second Creek War. The Chickasaws removed from their homes beginning in 1837.

A small dissident band of Cherokees signed the Treaty of New Echota in 1835 and departed for the new western lands. The majority of Cherokees, however, stayed in the

Southeast until 1838, when they were rounded up by federal and militia troops and forced to abandon their lands and homes and move west to Indian Territory. Most of the Seminoles left Florida only after being defeated and rounded up in the Second Seminole War (1835–1842).

The paths the various tribes took to present-day Oklahoma differed, some going by land, some by river. The Cherokees, for example, journeyed in seventeen separate groupings of approximately one thousand each during the bitterly cold winter of 1838–1839. Some traveled by boat, some walked through Tennessee into southern Illinois and southern Missouri before concluding the journey through Arkansas, and others took a more direct route through southern Tennessee into Arkansas, ascending for a time the Arkansas River to Fort Smith.

The National Park Service maintains the Trail of Tears National Historic Trail, which covers portions of the trails in nine states. Many states also feature parks and museums that commemorate the Trail of Tears.

See also *Indian Removal Act (1830)*; Jackson, Andrew; *Louisiana Purchase*; *New Echota (1835)*, *Treaty of*; *Removal*; *Second Creek War (1836–1837)*; *Second Seminole War (1835–1842)*; *U.S. Indian Policy: Congress and the Executive, 1803–1848*.

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BIBLIOGRAPHY

- Foreman, Grant. *Indian Removal: The Emigration of the Five Civilized Tribes of Indians*. Norman: University of Oklahoma Press, 1932.
- Perdue, Theda, and Michael D. Green. *The Cherokee Nation and the Trail of Tears*. New York: Penguin, 2008.
- Thornton, Russell. *American Indian Holocaust and Survival: A Population History since 1492*. Norman: University of Oklahoma Press, 1990.
- . *The Cherokees: A Population History*. Lincoln: University of Nebraska Press, 1992.

Treaties: Historical Overview

The United States made treaties—binding contracts between or among sovereign entities—with Native nations from its founding until 1871. The focus of these contracts was often the transfer of specific lands from Native nations to the United States, with Native nations retaining ownership of their remaining lands.

Native, European, and Euro-American nations dealt with each other through the treaty process from early contact; the practice was well established by the time of the American Revolution. As the European powers and, later, the United States competed to gain control of North America, they sought agreements with Native peoples. The Native nations

controlled lands that the Europeans wanted, but they also controlled trade and trade routes, buffer zones among warring parties, natural resources, rivers, and ports. Maintaining a foothold on what was, to Europeans, a new continent depended on maintaining positive relationships with the continent's long-time residents. Treaties and the treaty-making process defined these relationships and territories.

In the 1700s, the reasons for seeking agreements with Native nations shifted, as North America increasingly became a new theater in which Europeans continued old diplomatic and military rivalries. During this period, treaties focused on efforts to claim land to the exclusion of other European powers, to build military alliances with desirable Native partners, or to secure Native neutrality in conflicts with other European and Euro-American actors. Although not always signed with the best of intentions, treaties provided some stability in a situation that included numerous potential allies whose loyalties shifted regularly. Although there were important treaties among Europeans and Native nations in the Ohio Valley, the role of the Six Nations Haudenosaunee (Iroquois) Confederacy was most important for the longest period of time. The confederacy skillfully maintained its position as a buffer between France and England and later as a buffer between British Canada and its rebellious colonists.

After the American Revolution, the fledgling United States sought to solidify its boundaries and establish peaceful relations with its neighbors. To do this, it adopted the practice of making treaties with Native nations. The United States forged its first treaty with the Lenapes (Delawares) in 1778. Among other things, the treaty included a pledge of mutual support, the right of American troops to pass through Delaware territory, a promise that the Delawares would provide the colonists with military assistance, and an agreement that each party would not harbor the other's criminals or slaves. Although the United States promised "to guarantee to the aforesaid nation of Delawares, and their heirs, all their territorial rights in the fullest and most ample manner, as it hath been bounded by former treaties," it also offered the Delawares statehood within the new nation.

Before the U.S. Constitution was ratified in 1789, treaties had been completed with the Anishinabes (Chippewas), the Cherokees, the Six Nations Haudenosaunees, the Odawas, and the Wyandots. Between the revolution and the War of 1812, these treaties were critical to the young, obscure nation's survival. A typical U.S.–Native nation treaty during that era included some or all of the following elements:

- a declaration of peace between or among the parties;
- the Native nation's reservation of a permanent land base—the source of the term *reservation* to identify Indian lands—and a definition of its borders;
- various rights, such as the reservation of the right to hunt or fish in traditional places;
- cession of land or other resources by the Native nation to the United States; and
- the United States' promise to provide the Native nation with annuities and goods—such as food, farm implements, and livestock—and services—such as training in European agricultural methods, teachers, schools, and interpreters.

Some early treaties, such as the Hopewell treaties with the Cherokees, Chickasaws, and Choctaws, stated that the Native nations placed themselves under the protection of the United States. Some allowed travel or residence in certain places by members of the tribe or non-Indians. Some provided for a means of settling future disputes, specific forms of governance, or allocation of a certain amount of land to individual Indians. It was not unusual for treaties to include special provisions—such as stipends, reserves of land, or military titles—that rewarded individuals who cooperated with the U.S. government.

Constitutional Foundation and Abrogation

The U.S. Constitution provides the formal basis for treaty-making with foreign nations. Treaties made by the United States are based on Article 6, paragraph 2. This paragraph describes treaties as part of "the supreme law of the land," on a par with the Constitution itself and "the laws of the United States." The article goes on to state, "Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." States were forbidden from entering into treaties by Article 1, Section 10.

Article 2, Section 2, states that although treaties are to be "made" by the executive branch, they do not take full effect until ratified by two-thirds of the Senate. Early in his presidency, George Washington, upon the recommendation of Secretary of War Henry Knox, continued the practice of dealing with the Indian tribes through treaties and established the precedent of sending negotiated treaties to the Senate for ratification. In practical terms, this meant that the executive branch negotiated treaties, although some treaties with Native nations or groups were negotiated in the field by military personnel with little or no formal authorization. Proponents of the idea that the Indian tribes are sovereign

nations argued that this U.S. treaty making with the tribes represented U.S. acknowledgment of the tribes' status as sovereign nations. The Senate ratified nearly 400 of the treaties made with nearly every Native nation within or adjacent to U.S. boundaries. It was not unusual for a series of treaties to be made over time, with each subsequent treaty further diminishing a Native nation's land base.

After the War of 1812 the United States used treaties to clear vast swaths of land for Euro-American settlement. By this time, the United States could act from a position of strength in its dealings with most Native nations, and with a few exceptions, treaties were generally completed while the tribes suffered some form of military force or coercion. Treaties with eastern Native nations in the 1830s included provisions requiring them to relocate west of the Mississippi River. By 1843 all of the major tribes in the Southeast and most of those in the North had been removed to the West by means of a treaty.

After the Civil War (1861–1865), the United States altered its policy toward Native nations. These changes centered around President Ulysses S. Grant's so-called Peace Policy, which sought to move all Indians to reservations, assuage critics of reservation system abuses, and assimilate Indians into the U.S. mainstream by Christianizing them. The costs of the western wars and a wish to permanently settle U.S. land claims also led to a major effort to negotiate new treaties that would establish lasting peace.

At the same time, some U.S. officials and politicians, including Ely S. Parker, the commissioner of Indian affairs, were pushing the federal government to end the practice of treaty making with Native nations. On March 3, 1871, during discussion of 1872 appropriations for the Indian Department, the House of Representatives passed a joint resolution that ended U.S.–Native nation treaty making: "That hereafter no Indian nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty" (*U.S. Statutes at Large* 16:5:566). Although the law forbade the negotiation of treaties in the future, it legislated that the United States continue to recognize existing ones. The House of Representatives had not, to this point, had any say in treaty making and still does not play a role in it. Removing the United States' ability to negotiate treaties with Native nations, however, gave the House a stronger role in U.S. policy involving Native Americans. Congress did not waste any time in exercising that power in the 1870s. In the absence of

treaties, Native nations and the United States entered into contracts that are defined as "agreements."

See also *Treaty Abrogation*; *Treaty Interpretation: Judicial Rules and Canons of Construction*; *Treaty Interpretation: Native Understanding*; *Treaty Making: Protocols*; *Treaty Making: Treaty Ratification*; *Treaty Substitutes: Agreements and Executive Orders*.

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BIBLIOGRAPHY

- Deloria, Vine, Jr. *Behind the Trail of Broken Treaties: An Indian Declaration of Independence*. New York: Dell Publishing Co., 1974.
- Deloria, Vine, Jr., and Raymond J. DeMallie. *Documents of American Indian Diplomacy: Treaties, Agreements, and Conventions, 1775–1979*. Norman: University of Oklahoma Press, 1999.
- Johansen, Bruce E., ed. *Enduring Legacies: Native American Treaties and Contemporary Controversies*. Westport, Conn.: Praeger, 2004.
- Lyons, Chief Oren, and John Mohawk, eds. *Exiled in the Land of the Free: Democracy, Indian Nations and the U.S. Constitution*. Santa Fe: Clear Light Publishers, 1992.
- Pevar, Stephen L. *The Rights of Indians and Tribes: The Basic ACLU Guide to Indian and Tribal Rights*. 2nd ed. Carbondale: Southern Illinois University Press, 1992.
- Prucha, Francis Paul. *American Indian Treaties: The History of a Political Anomaly*. Berkeley: University of California Press, 1997.
- Wilkins, David E. *American Indian Politics and the American Political System*. Lanham, Md.: Rowman and Littlefield, 2002.
- . *American Indian Sovereignty and the U.S. Supreme Court: The Masking of Justice*. Austin: University of Texas Press, 1997.
- Wilkinson, Charles. *Blood Struggle: The Rise of Modern Indian Nations*. New York: W. W. Norton and Co., 2005.

Treaty Abrogation

From colonial times, through the establishment of the government of the United States of America, and well into the nineteenth century, treaties were the primary means of conducting relations with Indian tribes and implementing U.S. Indian policy. Although the U.S. Congress officially ended treaty making with Indian tribes in 1871, it provided that any existing treaties should thereafter remain in full force. This quickly proved an empty decree.

As early as 1871 the U.S. Supreme Court held that an act of Congress can abrogate an Indian treaty. For example, an 1866 treaty had guaranteed the Cherokee Nation the right to sell natural and manufactured products without being subject to federal taxes. But just two years later the federal government enacted a tax on liquor and tobacco products. In *The Cherokee Tobacco Case* (1871), the Court held that the statute superseded the treaty because the statute contained no specific exemption for the Cherokees. The Court repudiated this reasoning in 1883 in *United States v. 43 Gallons of*

Whiskey when it held that federal statutes must be construed, whenever possible, “so as to conform to the provisions of a treaty.”

In 1903 the Court embarked on a new approach. In the Treaty of Medicine Lodge Creek (1867), made between the U.S. government and the Kiowas and Comanches, the government had set aside a reservation and guaranteed that no additional land cessions would be required without the written consent of three-fourths of the adult males. In 1892 the federal government obtained an agreement signed by 456 men ceding over 2 million acres (809,717 hectares) of “surplus” land. Lone Wolf, a Kiowa, challenged the agreement, claiming that signatures had been obtained by fraud and that, in any case, 456 individuals did not represent the required three-fourths of the adult male population. In *Lone Wolf v. Hitchcock* (1903), the Court swept these assertions aside by reiterating that Congress could abrogate an Indian treaty and “possessed full power” over Indian property. The Court, consequently, could not interfere with congressional authority. Treaty abrogation had become a political matter that the Supreme Court would leave solely to Congress’s discretion.

By the mid-twentieth century the Court had done another about face, not only reviewing statutes that purported to abrogate treaty rights but requiring Congress to be clear that it intended abrogation when legislating. Thus, in *Menominee Tribe of Indians v. United States* (1968), the Court held that the Menominee Termination Act of 1954, severing federal relations with the tribe, did not abrogate the right to hunt and fish guaranteed by an 1854 treaty. The termination act provided that all statutes that applied to Indians because of their status as Indians would no longer apply to Menominees, but it said nothing about treaty rights. The Court, in an opinion by Justice William O. Douglas, declined to read the termination act as a “backhanded way” of abrogating treaty rights.

More recently, the Court announced a standard for determining whether Congress intended to abrogate treaty rights by legislation, although its application of that standard is questionable. Yankton Sioux Dwight Dion Sr. was convicted of shooting bald and golden eagles in violation of the federal Eagle Protection Act. Dion argued that because his taking of the eagles occurred within the Yankton Sioux reservation, he was exercising his tribe’s treaty-reserved right to hunt. In *United States v. Dion* (1986), the Court upheld Dion’s conviction, concluding that the Eagle Protection Act had abrogated the treaty right. The Court said that if Congress had considered the conflict between the legislation and Indian

treaty rights and chosen to abrogate, then congressional intent was clear. In Dion’s case, the Court found that Congress had made a conscious choice to abrogate because the statute authorized Indians to take eagles with a federal permit. Even though there was no evidence that Congress knew the statute would interfere with treaty rights, the Court found that existence of the permit process indicated that Congress had considered the conflict and chosen to resolve it by abrogation.

See also *Eagle Protection Act* (1940); *Indian Appropriations Act* (1871); *Lone Wolf v. Hitchcock* (1903); *Medicine Lodge Creek* (1867), *Treaty of*; *Termination and Restoration*.

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BIBLIOGRAPHY

- The Cherokee Tobacco Case*, 78 U.S. 616 (1871).
Lone Wolf v. Hitchcock, 187 U.S. 553 (1903).
Menominee Tribe of Indians v. United States, 391 U.S. 404 (1968).
 Pevar, Stephen L. *The Rights of Indians and Indian Tribes: The Authoritative ACLU Guide to Indian and Tribal Rights*. 3rd ed. Carbondale: Southern Illinois University Press, 2002.
United States v. Dion, 476 U.S. 734 (1986).
United States v. 43 Gallons of Whiskey, 108 U.S. 491 (1883).

Treaty Interpretation: Judicial Rules and Canons of Construction

The United States continued the English, French, and Spanish practice of dealing with the Indian nations on a government-to-government basis through treaty making. The U.S. government entered into more than four hundred treaties with various Indian tribes from 1778 to 1871. In these treaties, the United States negotiated sales of land, recognized other areas of Indian-owned land today called reservations, and acknowledged the self-governing powers of tribes. The U.S. Congress ended treaty making with tribes in 1871, but all of the preexisting treaties are still in effect and contain promises that bind the United States today. Under the U.S. Constitution, treaties are “the supreme Law of the Land.”

Native governments and peoples were not given rights or reservations by the United States in the treaties. Instead, through political and contract-like negotiations, tribes arranged a trade of rights with the United States. The U.S. Supreme Court has referred to Indian treaties as contracts between sovereign nations. Furthermore, the Court stated that treaties were not a grant of rights to Indians but were

instead a reservation by the tribes of rights that they already possessed (*United States v. Winans*, 1905). Thus, through treaties, tribes gave up certain rights to land and assets in exchange for payments, promises, and protection from the United States. These treaties, then, were not gifts to Indians. Instead, they were a trade of certain rights from the tribes to the United States to reserve other rights the tribes already possessed and wanted to retain.

Treaties have many similarities to contracts and have often been treated in a manner analogous to contracts by courts. As in contract law, courts try to interpret treaties to achieve the intent of the parties; that is, what did both parties intend when they signed the agreement? The unique aspect of interpreting Indian treaties arises from the recognition that Indians often occupied disadvantaged bargaining positions during treaty negotiations. This analysis is similar to the judicial treatment of “adhesion contracts.” An adhesion contract is one that was not really bargained for by the parties because one party was in a much weaker position than the other. In such instances, courts do not interpret the contract, or a treaty, against the interests of the weaker party. Hence, courts narrowly interpret Indian treaty provisions that injure tribal interests.

The suspect manner in which most Indian treaties were negotiated has led the U.S. Supreme Court to develop special rules of construction or interpretation that favor tribes when interpreting the meaning of treaties. Indian treaties receive a broad construction or reading in favor of the signatory tribe by mixing principles of international treaty construction with contract principles. Treaties must be construed liberally in favor of the tribes, and all ambiguities in the treaty language should be resolved in the Indians’ favor. Moreover, treaties should be interpreted as the Indians themselves would have understood them, and tribal sovereignty and property rights should be preserved unless Congress has made its intent to the contrary unambiguously clear.

There is good reason for these judicial rules that favor the Indian side of treaty making and to closely scrutinize the negotiations of many of these treaties. The United States and its negotiators often selected the “chief” of the tribe with whom they would negotiate. Often the government negotiators bribed and unduly influenced tribal negotiators with gifts or alcohol or both. The United States often was represented by attorneys, while the tribes did not have legal counsel. And the treaties were written in English. Thus, Indians were left to trust the U.S. negotiators that the treaty said what the negotiators told the Indians it said.

Although Congress has the power to abrogate a treaty with an Indian tribe, it must make its intent to do so clear. If Congress enacts a statute that conflicts with treaty rights, a further principle of treaty interpretation requires the federal courts to determine if Congress was aware of the conflict and deliberately chose to abrogate those rights (*United States v. Dion*, 1986). Without evidence of this congressional intent to abrogate, the courts should find that the Indian treaty rights remain intact.

As with any contract, both parties must fulfill the promised terms or suffer the legal consequences. As Supreme Court Justice Hugo Black noted in regard to Indian treaties: “Great Nations, like great men, should keep their word” (*Federal Power Commission v. Tuscarora Indian Nation*, 1960). The United States, then, must fulfill the treaty promises it made to Indian tribes and to Native peoples absent an act of Congress stating otherwise.

See also *Treaties: Historical Overview; Treaty Abrogation; Treaty Interpretation: Native Understanding; Treaty Making: Protocols; Treaty Making: Treaty Ratification.*

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BIBLIOGRAPHY

- Miller, Robert J. “Speaking with Forked Tongues: Indian Treaties, Salmon, and the Endangered Species Act.” *Oregon Law Review* 70 (1991): 543–584.
- Newton, Nell Jessup, ed. *Cohen’s Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005. Suppl. 2007.
- Prucha, Francis Paul. *American Indian Treaties: The History of a Political Anomaly*. Berkeley: University of California Press, 1994.
- Wilkinson, Charles F., and John M. Volkman. “Judicial Review of Indian Treaty Abrogation: ‘As Long as Water Flows, or Grass Grows upon the Earth’—How Long a Time Is That?” *California Law Review* 63 (1975): 601–661.

Treaty Interpretation: Native Understanding

Tribal peoples in North America organized socially and politically in communally based groups. They shaped their basic social, economic, and governmental structures based on kinship relations. Intermarriage and gift giving were common ways of expanding kinship networks and forming alliances among different tribes. The Native tribes have a long history, stretching back hundreds of years, of entering into alliances, confederacies, and working relationships with each other. A sense of spiritual balance governed kinship relations as part of a larger, commonly believed sense of natural law in the universe. This law was understood as spiritu-

ally based, with life consequences for those who engaged in unjust dealings toward others.

The Native tribes extended to the Europeans who first traveled to North America this willingness of integrating newfound friends into kinship. Interaction between tribal peoples and the different European representatives varied, from the harsh Spanish *encomienda* system imposed on the Pueblos in the Southwest to the French commercially motivated cultural immersion in a large number of tribal cultures to the Iroquois-Dutch alliance allowing for a pre-dominant Iroquois force on the eastern seaboard. Royal companies of the Dutch, English, French, and Swedish set up trading stations in North America and were empowered to enter into negotiations of treaties, regulate relations with tribes, buy land, and engage in warfare. The French and the Dutch in the 1600s sought to create firm trading relationships with Indian tribes, particularly for the purpose of establishing or enhancing the fur trade. Tribal members prized trade goods—such as firearms, steel knives and other metal utensils, cloth and wampum beads—which the Dutch West Indies Company supplied in exchange for Native-produced furs.

Based on these early experiences, the Indian nations began to enter into bilateral arrangements with representatives of other nations, only to find promises breached when it became convenient for the other party to do so. This state of affairs continued with the rise of the British as the major presence along the eastern seaboard. As the thirteen colonies overthrew British rule, those tribal nations perceived as allies in the rebellion initially received preferential treatment from the newly formed nation. Tribal nations who supported and assisted British forces against the colonies suffered harsh demands by the new permanent settlers on the continent. U.S.-Native treaty making was originally a means by which the United States strengthened bonds with tribal allies and forced relocation and land cessions by tribal adversaries. The double-edged sword of treaty making was not lost on tribal nations.

Tribal leaders engaged in treaty making with the mindset that the agreement process was to be undertaken in a serious, sacred, and ceremonial manner. Often the representatives of the United States were invited to ceremonial prayers and offered the opportunity to join in sacred pipe ceremonies. Treaty conferences were typically opened by Native speakers, who called on spiritual powers to bless and approve of the proceedings. By entering into relations with U.S. officials, tribal leaders acknowledged the serious commitment

being undertaken in the pledging of alliances, promises, and understandings that would bind their generation and the next generations of their people. The subjects of treaty making generally included tribal resources, tribal lands, and alliances, all three bearing directly on the cultural beliefs and lifestyle of the tribal peoples.

The cultural differences between property ownership of Euro-Americans and the respect for Earth as a living being arose in treaty negotiations, with the tribal leadership attempting to explain the sacred relationship that prevented sale of the land and resources. The Cayuses, Nez Perces, Umatillas, and Walla Wallas at the Treaty Council of Walla Walla in 1855 explained many times that “they had a singular relationship with the prairies, mountains, valleys, rivers, lakes, trees, roots, berries, fish and animals” (Karson, *Wiyaxayxt* *as days go by **Wiyakaaka’awn*). This relationship predated human arrival on Earth and was established by the Creator under natural law, which prohibited tribal people from selling their land or resources. Disregarding the cultural understandings of tribal peoples, U.S. representatives often used the threat of military force to coerce tribal leaders to surrender tribal lands and set aside diminished territories for their people.

In recognizing tribal territory by treaty, the United States generally agreed to restrain its citizens from entering tribal lands. For example, in the Treaty of Holston, between the Cherokees and the United States, the parties agreed to perpetual peace and friendship, to respect a boundary line between the two nations, for the United States to protect the Cherokees (who would not enter into treaties with other governments), and for any person illegally settling within the Cherokee territory to forfeit the protection of the United States and be punished under Cherokee law.

Within tribal governments, the act of negotiation and binding the nation was a formal process requiring those with the proper authority to carry out such responsibilities. The Six Nations of the Iroquois League deliberated on weighty matters until reaching a consensus. This is the approach they used when a foreign government proposed an alliance. Sometimes the process of reaching a consensus took years. Iroquois delegates entered into negotiations pursuant to specific instructions, and if they had not received instructions on a particular topic prior to the negotiations, they could speak only as an individual and not as an authority for the confederacy. Therefore, when proper tribal delegates agreed to specific treaty provisions, the tribal members understood that the nation was bound by those terms as discussed.

The treaty ratification process of the United States was not explained to or understood generally by tribal peoples. Internationally, when a party on one side changes a treaty term, the changes require that the treaty be renegotiated with the other party. The United States often unilaterally altered treaties after congressional ratification without notice to the affected tribal nation. When Red Cloud, a Lakota leader, traveled to Washington, D.C., to inquire about the lack of enforcement of the Fort Laramie Treaty of 1868, he was informed that the agreement had been altered by Congress. He responded by declaring that he had been deceived.

As the United States attempted to spread its authority across the continent, treaty making sometimes devolved into the fraudulent coercion of tribal members forced into putting an "X" on a piece of paper. Treaties from 1784 to 1789 purporting to cede the territory of Ohio were either negotiated by federal representatives who negotiated with Native individuals who did not hold authority from their tribe to conduct diplomatic relations or imposed on a tribe with some form of coercion. Compounding these injustices, in many cases the translators hired by U.S. representatives did not accurately describe the provisions in the treaties under negotiation.

In 1871 a rider was added to an appropriations bill that declared that the United States would no longer engage in treaty making with tribes. Instead, agreements would be negotiated without formal designations as treaties. Tribal leaderships experienced disappointment, disillusionment, and deception throughout the late 1800s and into the mid-1900s in terms of the U.S. commitment to treaty making and implementation. U.S. federal courts have never fully regarded treaties as international instruments requiring adherence by the United States. The Supreme Court has adopted the principle that Congress has both the power to enter into treaties and the power to abrogate or disregard treaties with tribal nations. The Court clearly articulated this stand in *Lone Wolf v. Hitchcock* (1903). To ameliorate the potentially harsh effects of this approach and to acknowledge that U.S. officials hold the dominant authority in treaty negotiations, federal courts have applied canons of construction to require that treaty terms be interpreted as the tribal peoples would have understood them at the time they were negotiated.

In 1972 more than a thousand tribal people traveled to Washington, D.C., as part of the Trail of Broken Treaties, an effort to present a twenty-point document for improving the quality of life for tribal peoples. Several of the points outlined

sought restoration of the U.S. practice of entering into treaties with tribes, declared the need to enforce existing treaty provisions, and called for the recognition of a treaty-relations status between tribes and the United States. This effort illustrated the ongoing belief of tribal members that they are bound to the treaties entered into by their forebears and that the United States has neglected its obligations under domestic and international law in violating these treaties.

With the formation of the International Indian Treaty Council in the late 1970s, tribal nations worked together in the global arena to present their claims against the United States for treaty violations. One such effort led to a 2001 advisory opinion by the Commission on Human Rights of the Organization of American States finding that the United States had violated the rights of the Western Shoshones in unilaterally seizing tribal lands, failing to follow due process in the taking of such lands, and disregarding the tribal members' right to property. In the international arena, these actions amount to U.S. treaty and human rights violations.

Treaties are the method by which nation-states enter into consensual relations with each other. As parties to treaties with the United States, tribal nations continue to seek recognition and enforcement of treaty provisions to protect tribal lands and resources from unilateral U.S. action. Tribal peoples still view treaties as the primary basis of the relationship between their nations and the United States.

See also *American Revolutionary War (1775–1783)*; *Discovery, Doctrine of*; *Great Britain, Indian Policy of*; *Indian Policy of the Continental Congress*; *Red Cloud*; *Sovereignty*; *Trail of Broken Treaties (1972)*; *Treaties: Historical Overview*; *Treaty Abrogation*; *Treaty Interpretation: Judicial Rules and Canons of Construction*; *Treaty Making: Protocols*; *Treaty Making: Treaty Ratification*; *Treaty Substitutes: Agreements and Executive Orders*; *U.S. Indian Policy: Congress and the Executive, 1775–1803*; *U.S. Indian Policy: Congress and the Executive, 1803–1848*; *U.S. Indian Policy: Congress and the Executive, 1845–1877*; *Westward Migration*.

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BIBLIOGRAPHY

- Conley, Robert J. *Cherokee Nation: A History*. Albuquerque: University of New Mexico Press, 2005.
- Deloria, Vine, Jr. *Behind the Trail of Broken Treaties*. New York: Delacorte Press, 1974.
- Jemison, G. Peter, and Anna M. Schein, eds. *Treaty of Canandaigua, 1794: Two Hundred Years of Treaty Relations between the Iroquois Confederacy and the United States*. Santa Fe: Clear Light Publishers, 2000.
- Jennings, Francis, William N. Fenton, Mary A. Druke, and David R. Miller, eds. *The History and Culture of Iroquois Diplomacy: An*

- Interdisciplinary Guide to the Treaties of the Six Nations and Their League*. Syracuse: Syracuse University Press, 1985.
- Johansen, Bruce E., ed. *Enduring Legacies: Native American Treaties and Contemporary Controversies*. Westport, Conn.: Praeger Publishers, 2004.
- Karson, Jennifer, ed. *Wiyaxayxt * as days go by * Wiyaakaa'awn: Our History, Our Land and Our People: The Cayuse, Umatilla, and Walla Walla*. Pendleton, Ore.: Tamastlikt Cultural Institute, 2006.
- Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005.
- O'Brien, Sharon. *American Indian Tribal Governments*. Norman: University of Oklahoma Press, 1989.
- Williams, Robert A., Jr. *Linking Arms Together: American Indian Treaty Visions of Law and Peace, 1600–1800*. New York: Oxford University Press, 1997.

Treaty Making: Protocols

The United States negotiated and concluded treaties with American Indian nations from the Declaration of Independence until 1871, when an act of Congress outlawed further treaty making with American Indian nations. The conduct and protocol of treaty negotiations during the American Revolution had actively and consciously emulated precedents established by British imperial authorities during the colonial period. Although diplomatic forms varied from nation to nation, generally the treaty-making protocols adopted by postcolonial American governments respected, at least on the surface, American Indian political organization, legal custom, and spiritual and cosmological understandings. At the same time, however, American (and European) participation in treaty making sought to bend and adapt indigenous forms to comport with European understandings of sovereignty and private property. As respect for Indian peoples and their sovereignty declined with the rise of scientific racism in the nineteenth century, American leaders took treaty negotiations with Indian nations increasingly less seriously.

American Indian peoples throughout North America had a history of exchange and diplomacy, of political interaction, and commerce that predated contact with the Europeans by centuries, if not millennia. European settlers seeking access to American Indian goods, produce, or lands found that they needed to negotiate for them. As European and American Indian peoples came into extended and regular contact with one another, both peoples needed to come to understandings about the laws and customs that would be applied to deal with issues such as murder, theft, marriage, and the status of offspring. There were thus commercial, political, and legal imperatives for formal diplomatic agreements between

European settler communities and the American Indian nations.

The system of interaction that developed between the sixteenth and eighteenth centuries has been theorized and described thoroughly by historian Richard White in *The Middle Ground* (1991). In studying Indian–European interaction in the Great Lakes basin between the mid-seventeenth and early nineteenth centuries, White discovered a world where Indian and European peoples utilized aspects of each other's cultural systems of interaction and exchange and also willingly misunderstood each other to further their own goals. This process of mutual misunderstanding and cultural borrowing can be observed at work in the protocols surrounding treaty making between the early United States and its Indian neighbors.

The diplomatic protocols that came to inform the United States' treaty making with American Indians were informed by the customs of the Native peoples of the eastern woodlands. The Algonquian and Iroquoian speakers with which the colonists had the bulk of their dealings adhered to similar patterns in the structure of their negotiations (though with some differences). The date and place of a conference would be announced far enough in advance to allow the Indian (and European) leaders time to prepare and travel to the site of the meeting. Europeans were almost always the hosts, and responsibility would fall on the party calling and hosting the conference to pay for the food, drink, and other supplies the visiting Indians would need during their stay.

Before a treaty conference could begin, all parties needed to resolve outstanding disputes and conflicts; this was especially true if the treaty marked the end of a war or followed a period in which no diplomacy had occurred. If one or both parties had killed a member of the opposite party, then restitution of some sort, material or spiritual or both, had to be offered. Parties were required to affirm that the conflict was now in the past and that they were ready to talk. Iroquoian speakers marked the end of conflict with a ceremony known as the Ritual of Condolence, or the Wood's Edge Ceremony, a reenactment of the story of Deganawida, who in the Iroquois tradition had brought peace and unity to the Iroquois people. Algonquian speakers engaged in similar activities, utilizing a practice translated as “covering the dead” to provide restitution to those wronged in past conflicts. Negotiations also often took place through the aegis of the calumet, a ceremonial tobacco pipe that customarily guaranteed concord between all parties. Once these preliminary ceremonies had been held—at treaties with multiple

European and Indian parties, this could be a lengthy process—formal negotiations could begin.

Formal negotiations took place through the medium of extended speeches and gift giving. The Europeans and Indians both communicated their positions through speeches, which were usually punctuated by the giving of strings or belts of wampum. Speakers recounted the histories of the two peoples engaged in negotiation, connecting the identities of current leaders with older figures, thus reminding all of the continuities in their relationships. Whereas the Europeans and Americans saw relationships governed by political concepts, such as sovereignty, Indian peoples emphasized fictive kinships. Whereas British negotiators spoke of acknowledging the sovereignty of the king, Indians spoke of King George as the Great Father of all those present. After American independence, the president of the United States came to occupy the same fictive position.

Although these two visions stood fundamentally at odds with one another, enough congruence existed to allow both sides to play along with the other. Speeches could go on for a while. Often, each side would speak formally on different days. Outside of formal sessions, Indian leaders and American leaders conferred with their own partners to plot the next day's response or parties met informally to iron out differences before the next formal negotiating session. Large amounts of food and liquor were often dispensed in the hours outside the formal sessions. Negotiation under the influence of alcohol was nominally forbidden, but records and accusations of whites using liquor to bend Indian leaders to their will exist in the historical record and increased with frequency in the nineteenth century.

European and American leaders took care to record the formal speeches of the treaty negotiations as best they could. Treaty records were limited and complicated by the fact that those who served as translators between Indian and European voices were often marginal figures, some of limited literacy. In addition, the recorder of Indian voices often had no knowledge of actual Indian languages and therefore relied on interpreters. Negotiators from the colonies and later the United States tried generally to produce an accurate record of most treaty congresses because bad record-keeping could place land transfer agreements (and thus land titles) in jeopardy, through protests from the Indians at a later date and also by other whites. The presence of multiple Indian leaders at each conference ensured multiple memories of each negotiation; as Indians acquired literacy from the Europeans, they also increasingly kept written records of

treaties. The recorded formal proceedings of the treaty congress were usually published with the treaty itself and considered part of the formal record of the agreement.

After ratification of the U.S. Constitution in 1789, Indian treaties were regarded as the same, at least procedurally, as treaties with European nations. For formal ratification, a treaty needed a two-thirds vote from the Senate and then had to be publicly promulgated by the president to complete the ratification process. The negotiation process remained the same, but the seriousness with which U.S. authorities took these ceremonies diminished. From the 1830s, increasing numbers of Indian leaders were brought to Washington, D.C., where U.S. officials displayed to them the increasing power of an industrializing United States. By the middle of the nineteenth century, and especially after the Civil War, many in Congress questioned the need to even pretend to treat the Indian nations as if they were sovereign equals to the United States. Honoring what most whites saw as a fiction through elaborate and expensive ceremonies seemed wasteful and counterproductive to efforts to assimilate the tribes. Members of the House of Representatives also resented the fact that they played no formal role in the treaty-making process. This attitude resulted in the act passed by Congress on March 3, 1871, that promised to respect all existing treaties between the United States and the Indian nations but ordered that thereafter Indian affairs would be dealt with through legislation rather than by treaty.

See also *Treaties: Historical Overview; Treaty Abrogation; Treaty Interpretation: Judicial Rules and Canons of Construction; Treaty Interpretation: Native Understanding; Treaty Making; Treaty Ratification.*

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BIBLIOGRAPHY

- Fenton, William N. *The Great Law and the Longhouse: A Political History of the Iroquois Confederacy*. Norman: University of Oklahoma Press, 1998.
- Kalter, Susan, ed. *Benjamin Franklin, Pennsylvania, and the First Nations: The Treaties of 1736–1762*. Urbana: University of Illinois Press, 2006.
- Prucha, Francis Paul. *American Indian Treaties: The History of a Political Anomaly*. Berkeley: University of California Press, 1994.
- Viola, Herman J. *Diplomats in Buckskin: A History of Indian Delegations to Washington City*. Washington, D.C.: Smithsonian Institution Press, 1981.
- White, Richard. *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815*. New York: Cambridge University Press, 1991.
- Williams, Robert A. *Linking Arms Together: American Indian Treaty Visions of Law and Peace, 1600–1800*. New York: Oxford University Press, 1997.

Treaty Making: Treaty Ratification

Article II of the U.S. Constitution states that the president “shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur.” The meaning of the phrase “Advice and Consent,” however, was unclear. The issue was clarified after the controversial approval of the Treaty of Fort Harmar (1789). After reviewing the treaty, the U.S. Senate argued that Indian treaties did not require formal ratification. President George Washington disagreed with the Senate’s response, as he believed that treaties with Indian nations needed formal ratification before they went into effect, similar to treaties negotiated with foreign nations. Eventually, the Senate adopted Washington’s view. In the ensuing years, the Senate followed Washington’s precedent and ratified approximately 370 treaties, with the majority of them (348) implemented during the early nineteenth century.

Historians have pointed out numerous problems associated with the negotiation and signing of treaties with Indians. The ratification process potentially added further problems. The Senate might refuse to ratify treaties that had already been negotiated and signed, as it did with a number of treaties concluded with several California tribes. The Senate also might make changes to treaties. Many tribes were blindsided with new and unilateral changes made during the ratification process. For example, in the Treaty of Traverse des Sioux and the Treaty of Mendota (1851), the Dakotas sold their lands in Minnesota for a permanent reservation. The Senate, however, struck out the reservation provision. Indians protested against these kinds of ratification changes.

Congressional infighting brought an end to the Indian treaty system. Members of the U.S. House of Representatives were tired of senators having complete control over U.S.-Indian treaties. In 1871 a rider was attached to an Indian appropriations act that did away with the treaty process. Instead “agreements” would be reached with tribes. The only difference between agreements and treaties was the ratification process. Agreements required enactment by both chambers as statutes, thus giving the House a role in their approval.

See also *Treaties: Historical Overview; Treaty Abrogation; Treaty Interpretation: Judicial Rules and Canons of Instructions; Treaty Interpretation: Native Understanding; Treaty Making: Protocols.*

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BIBLIOGRAPHY

- McCluggage, Robert W. “The Senate and Indian Land Titles, 1800–1825.” *Western Historical Quarterly* 1, no. 4 (October 1970): 415–425.
- Prucha, Francis Paul. *American Indian Treaties: The History of a Political Anomaly*. Berkeley: University of California Press, 1994.
- Wilkins, David E., and K. Tsianina Lomawaima. *Uneven Ground: American Indian Sovereignty and Federal Law*. Norman: University of Oklahoma Press, 2001.

Treaty Substitutes: Agreements and Executive Orders

The official era of treaty making between the U.S. government and the Native nations came to an end in 1871. By then, the power of Indian tribes was less of a security threat to the nation and thus the perceived need for making treaties with them had diminished. Excluded from the treaty-making process, the House of Representatives resented the authority that the Senate had over Indian affairs given its constitutionally derived treaty-making power. And while it had no say in the formulation of the treaties, the House was required to initiate the appropriation of funds called for in their provisions. The House Committee on Indian Affairs attached a rider to the 1871 Department of Interior appropriations bill, providing “that hereafter no Indian nation or tribe within the territory of the United States shall be acknowledged as an independent nation, tribe, or power with whom the United States may contract by treaty” (*U.S. Statutes at Large*, 16.566, March 3, 1871). This rider also stipulated that the legislation would not “invalidate or impair the obligation” of existing treaties.

Early Agreements

From 1871 to 1913, ninety-eight agreements between the U.S. government and American Indian tribes were negotiated, of which ninety-six were ratified by both houses of Congress. The vast majority dealt with land cessions and government annuities. Most agreements were attached as riders to Indian appropriations bills. Their legal status was upheld by the U.S. Supreme Court in 1975, in *Antoine v. Washington* (420 U.S. 194): “[O]nce ratified by Act of Congress the provisions of Agreements become law, and like treaties, the supreme law of the land.”

Executive agreements are the exception to this rule. The president, through the secretary of the interior, would strike bargains or resolve disputes with Indian tribal delegates who came to Washington, D.C. These agreements did not need

approval of Congress, but they did rely on appropriated funds.

Substituting agreements for treaties fundamentally affected the relationship between tribes and the federal government. Indians moved from having a place on the national agenda to being an item on a congressional committee agenda. Congress no longer had to negotiate with Indians or obtain their consent on Indian matters. Congress took no official action to end this phase of agreement making. The last agreement ratified by Congress was with the Wimminuche band of Southern Ute Indians in 1913. Since 1914, agreements have been referred to and treated as regular legislation.

Contemporary Agreements

Demands for indigenous self-determination began in earnest in the 1960s, and the passage of the 1968 Indian Civil Rights Act is considered the benchmark of the self-determination era. The groundwork for reestablishing the government-to-government relationship between the United States and federally recognized American Indian tribes began under President Richard M. Nixon in 1970. Meanwhile, tribes made renewed efforts to reclaim lost rights.

In 1988, American Indian tribes began entering into new, contemporary agreements that encompassed self-governance. Unlike nineteenth- and early twentieth-century agreements concerned with land cessions and annuities to tribes, contemporary settlement agreements cover tribal land claims, water rights, conflicts between Indians and non-Indians, and other issues related to tribal self-determination. These agreements are comparable to a modern form of treaty making. Even though President Ronald Reagan's budget cuts were devastating to federally dependent tribes, the government-to-government relationship came to fruition under his administration with the encouragement of tribal gaming as a means of economic development. Under the 1988 Indian Gaming Regulatory Act, gaming operations on federal Indian trust lands were to be negotiated between Indian tribes and states' governors in legal agreements called "Tribal-State Compacts." These compacts became law when approved by the secretary of the interior and published in the *Federal Register*.

Executive Orders

Executive orders are official commands or directives issued by the president of the United States instructing federal agencies to take a specific action. Executive orders have the

force of law and become effective upon inclusion in the *Federal Register*. Executive orders to federal agencies can be decreed orally or by written word.

Ultimately, Congress has power over executive orders, as it may overrule such an order by passing a law. Executive orders often implement public policy as intended by Congress or the U.S. Constitution. The executive branch of government, through the president, implements policy put forth by Congress, which has plenary power over American Indian affairs.

Executive Order Reservations

Parcels of land set aside by the president, from 1855 to 1919, for the use and occupation of a specific tribe and its members were known as executive order reservations. After 1871, when treaties were no longer used to designate reservations, statutes and executive orders were the remaining methods for establishing them. The federal courts upheld the practice of using executive orders to set up reservations, based on the grounds that Congress did not protest or introduce legislation to counter them. Congress eventually did end the practice of executive order reservations, in 1919 (43 U.S.C. §150).

With the shift in federal policy toward enhancing tribal autonomy in 1934, Congress gave the secretary of the interior the authority to acquire land for Indian reservations, to proclaim the establishment of new reservations, and to enlarge existing ones, in Section 5 of the Wheeler-Howard Act, commonly known as the Indian Reorganization Act. As of the late 2000s, the courts had not determined whether this provision allows the president, through the secretary of the interior, to create additional executive order reservations.

Executive Orders Recognizing Religious Connections to the Land

As part of an effort to protect Indian religious practices, President Bill Clinton issued Executive Order 13007 on May 24, 1996, regarding sites held sacred by American Indians on federal lands. It directed executive agencies to implement procedures for the accommodation of ceremonial use of federal land considered to be "sacred site" land by American Indians and tribes that notified the appropriate agency through an authoritative representative of the tribe or Indian religion.

Executive Orders Concerning Education

On August 6, 1998, President Clinton issued another type of executive order that dealt specifically with American Indian

and Alaska Native education (Executive Order 13096). This statement of policy was the result of collaboration with Indian organizations and had widespread support from tribes across the country. The order set forth goals, established research initiatives, and issued directives for pilot schools. Although an Interagency Task Force was created to oversee implementation of the order, it was not legislation. Consequently, no funds or sanctions accompanied the executive order. At best, it hoped to improve internal management of executive departments dealing with the education of American Indians and Alaska Natives.

President George W. Bush signed two executive orders concerning Indians, both dealing with education. On July 3, 2002, Executive Order 13,270 was issued in support of tribal colleges and universities. In this order, President Bush also revoked an existing executive order on tribal colleges issued by President Clinton in 1996. In the executive order issued April 30, 2004, President Bush added American Indian and Alaska Native education to his No Child Left Behind initiatives, which had excluded indigenous Americans. As with his tribal college executive order, this order revoked the American Indian and Alaska Native education order issued by President Clinton in 1998. However, Bush's order contained no provisions for funding, and it is not legislation.

See also *Alaska Native Claims Settlement Act (1971)*; Bush, George W.; Clinton, Bill; *Government-to-Government Relations*; *Indian Civil Rights Act (1968)*; *Indian Reorganization Act (1934)*; *Sacred Sites*; *Self-Determination*; *Treaties: Historical Overview*; *Treaty Abrogation*; *U.S. Indian Policy: Congress and the Executive, 1845–1877*; *U.S. Indian Policy: Congress and the Executive, 1871–1934*.

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BIBLIOGRAPHY

- Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005. Suppl. 2007.
- Prucha, Francis Paul. *American Indian Treaties: The History of a Political Anomaly*. Berkeley: University of California Press, 1994.
- . *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Wilkins, David E. *American Indian Politics and the American Political System*. 2nd ed. Lanham, Md.: Roman and Littlefield, 2006.

Tribal Acknowledgment (Federal)

The primary relationship in U.S. Indian policy is the trust relationship that exists between the federal government and individual, federally recognized tribes. To be federally recog-

nized, or acknowledged, means that the United States acknowledges the tribe's existence and that the two parties have entered into a government-to-government relationship.

Such a relationship carries responsibilities for both parties and is the source of many obligations on the part of the U.S. government. For example, as a part of the trust relationship, the Bureau of Indian Affairs (BIA) is responsible for the administration of tribal trust funds and lands and the provision of law enforcement services and health care, as well as loan opportunities and grants for Indian businesses, education, home improvements, and land leases. Federally recognized Indian tribes receive fiscal benefits as a result of their recognition, including tax-exempt status for tribal enterprises and property located on trust land and income that individual Indians receive from trust resources or as part of a treaty agreement. In addition, members of federally recognized tribes are entitled to hiring preferences within the BIA. Further, federal recognition grants tribes reclamation rights under the Native American Graves Protection and Repatriation Act and artistic protection under the Indian Arts and Crafts Act.

There are more than 560 federally recognized tribes in the United States. There are also more than 220 tribal groups seeking recognition of their status and an entrée into the advantages of a government-to-government relationship. Though not all of these groups have a legitimate claim to tribal status, a significant proportion of them do. Perhaps the group members' Indian heritage is unquestioned, but the group's tribal status and political history is contentious. Or, perhaps, the group is a cohesive political and social body whose racial and ethnic heritage has been difficult to trace due to legacies of removal, intermarriage, or selective acculturation into the dominant society.

The plight of unacknowledged tribes is significant. Members of American Indian tribes in general face higher poverty and unemployment rates than any other demographic group in the United States; they are subject to many of the attendant problems associated with this level of poverty, including high rates of depression, illness, chemical dependency, and crime. Unrecognized groups often have even worse socioeconomic indicators than long-established tribes, but they have no recourse to federal Indian programs or monies. Many unrecognized groups seek acknowledgment of their status as a way to gain access to federal aid; others seek it for access to additional economic development opportunities, like gaming, which are available only to recognized tribes. However, the vast majority of unrecognized tribes seeking acknowledgment begin the process primarily

to validate their heritage and identity by obtaining legal recognition of their tribal status.

History of the Acknowledgment Process

Prior to 1978, federal acknowledgment of unrecognized Indian tribes took place on an ad-hoc basis through judicial mandates, acts of Congress, or executive branch (BIA) directives. However, in 1978, in response to congressional pressure and activism within Indian Country, the BIA developed criteria for recognition and created an office within the agency to administer recognition. Originally called the Branch of Acknowledgment and Research (BAR), that office is now known as the Office of Federal Acknowledgment (OFA).

Although the criteria and their interpretation have changed since 1978, reflecting critiques of the process, the basic criteria for recognition have remained rather consistent. The mandatory criteria that a group must meet to be acknowledged through OFA are:

- (a) The petitioner has been identified as an American Indian entity on a substantially continuous basis since 1900.
- (b) A predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present.
- (c) The petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present.
- (d) A copy of the group's present governing document including its membership criteria. In the absence of a written document, the petitioner must provide a statement describing in full its membership criteria and current governing procedures.
- (e) The petitioner's membership consists of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity.
- (f) The membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian tribe.
- (g) Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship. (U.S. Department of the Interior, "Brief Overview of 25 CFR Part 83 Criteria")

After the BIA developed these criteria, the federal courts began refusing to hear acknowledgment cases and told

hopeful tribes to go through the administrative process. Tribes are still able to gain acknowledgment through congressional bills, and seven tribes have achieved acknowledgment through legislation, but many see that process as dangerous. Such bills of acknowledgment have been criticized (by those seeking them, by scholars, and by those in opposition) as being too arbitrary, too political, and too precarious. (A majority in Congress could, theoretically, rescind an acknowledgment granted in a previous session.) Moreover, tribes that attain recognition through this path run the risk of appearing to have bypassed the more rigorous process established at the BIA.

The Mashantucket Pequot tribe in eastern Connecticut is one group that achieved legislative recognition and withdrew its administrative application. Its legislative recognition, coupled with its successful large-scale gaming operation and the perception that the tribe's members are racially black and white rather than Indian, has left the tribe to deal with claims that they are not "real Indians." Given judicial fiat and the controversy surrounding congressional recognition such as that experienced by the Mashantucket Pequots, most hopeful groups opt to go through the OFA process.

The Recognition Process

Hopeful groups seek to satisfy OFA criteria through exhaustive historical, genealogical, and anthropological research, which culminates in the preparation of a formal petition for acknowledgment. The petition is reviewed by OFA staff, which is composed of career administrators with academic training in the fields of history, anthropology, and genealogy. OFA makes a recommendation for action to the assistant secretary of Indian affairs (AS-IA), who then issues a preliminary finding, recommending either acknowledgment or denial. Once the preliminary finding is published in the *Federal Register*, a public comment period is opened, and interested third parties—such as the state in which the tribe is located or a pan-tribal group like the National Congress of American Indians—may support or oppose the finding. The comment period is 180 days and can be extended for another 180 days, at the discretion of the AS-IA. When the process is complete, the AS-IA issues a final determination granting or denying tribal recognition. A group that wishes to challenge a denial of recognition may pursue the BIA's internal appeals process. After exhausting those appeals, the group is eligible to challenge the determination in federal court.

Since 1978 more than 250 groups have indicated an official interest in petitioning OFA for recognition. From 1978



Ramapough Mountain Indians protest outside the U.S. Department of the Interior in November 1995 to demand federal recognition of their tribe.

to 2008, the status of 44 petitions has been determined by OFA staff; 16 tribes were extended acknowledgement, 28 were denied. Another tribe had its status clarified by congressional determination, at the request of OFA; and two more tribes had their status clarified by other means. In an unprecedented move, the George W. Bush administration's appointees to the BIA decided to re-review the positive OFA determinations of two tribal groups and have indicated that tribal acknowledgment may be rescinded in these cases.

Critics of the Recognition Process

Federal recognition is controversial no matter how tribes attempt to achieve it. Tribal members and leaders have criticized the process as have a host of others, including the leaders of groups seeking acknowledgment, state and local non-Indian governments intent on stopping federal recognition, federal officers responsible for fiscal oversight, and academics who have studied it. Nearly all interested parties agree that the process is inordinately time consuming and expensive for tribal groups. On average, a petitioning group spends six to ten years collecting and transcribing oral histories, drawing maps, and researching county records to document its claim. OFA staff members spend another six to ten

years evaluating a petition and moving it through bureaucratic channels.

This research and evaluation process has proven to be expensive. From 1978 to 1990, sixteen hopeful groups spent roughly \$8 million, combined, researching their petitions. Recent estimates place the cost for research for some of the more contested acknowledgment claims at more than \$1 million per year, per petition; some petitioning groups are reported to have spent as much as \$5–8 million on their claims. Less contested claims are still expensive, with research and legal advice costing the group an average of \$50,000–100,000 per petition. The cost to the federal government to evaluate these petitions is also high—OFA staff estimate that the office spends nearly \$1 million per petition reviewed.

Some state and local non-Indian governments have been vociferous critics of the acknowledgment process, alleging that it allows too many groups of questionable Indian ancestry or affiliation to wrongfully gain access to federal recognition and the perceived benefits (especially gaming rights) that such recognition brings. This critique was originally introduced by former BIA historian William Quinn, who was referring to applications originating from groups in the southeastern United States. Hopeful tribes on the

East and West Coasts, and nearly everywhere in between, have also been accused of faking a tribal heritage and political culture in order to achieve recognition—and access to gaming revenue.

Scholars argue that the OFA criteria and processes are highly subjective, and that interpretation of the criteria is contentious at best, arbitrary at worst. They further argue that the OFA criteria require reproduction of those traits seen to be stereotypically Indian. Because of this, tribes with a history outside the stereotype are rendered invisible in the process and unable to achieve recognition—or they must create or exaggerate those cultural traditions that are most visible to the dominant gaze. Some authors argue that federal acknowledgment processes reinstate a kind of colonialism by requiring Indian people to conform to very particular, limiting ideas of tribal governance and culture.

Current Status of the Acknowledgment Process

In an effort to answer critics of the administrative process, the Senate Committee on Indian Affairs has held several rounds of hearings, and Congress has made changes to the OFA criteria and processes. Key among these changes has been the reduction of the burden of proof imposed upon hopeful tribes in proving criterion 83.7(a), which asks them to show that they have been identified as an Indian entity by outsiders (state and local governments, churches, anthropologists) from 1900 to the present. A similar reduction in the burden of proof was made for criteria 83.7(b) and 83.7(c), which relate to maintenance of tribal political and social community and to geographic or social cohesion, respectively. Hearings held in 1994 resulted in an amendment to the list of factors or circumstances that can be used to prove the existence of maintained political, social, and geographic cohesion, so that tribes have a better sense of what to include in their acknowledgment petitions.

More recent changes prompted by subsequent hearings include a provision for “expedited review”—or speedier denial—for groups that clearly cannot show that they meet criteria 83.7(3), descent from more than one ancestor who was a member of a historic tribe. This change reflects the concerns of those who worry that OFA admits into the federal system certain groups who are not bona fide Native Americans. It also reflects legitimate tribal groups’ concerns that the process is too time consuming; by expediting denial of clearly irrelevant claims, OFA staff members argue that they can better serve the needs of legitimate groups seeking acknowledgment.

In 2000 AS-IA Kevin Gover issued a “directive” to the administrative staff, with the intent of speeding up the process by limiting the research and review undertaken by the staff. He directed them to acknowledge that the history of colonialism in the United States makes it difficult for legitimate groups to trace their tribal history and Indian heritage.

In 2001 the U.S. Government Accountability Office (GAO) issued a sweeping indictment of the acknowledgment process, noting the tremendous backlog of petitions awaiting determination and expressing concern that the agency was “ill equipped to provide timely responses to tribal petitions.” AS-IA Neal McCaleb issued a strategic plan in 2002, outlining the steps the BIA would take to streamline and expedite the acknowledgment process. In February 2005 the GAO issued an update on the acknowledgment process, congratulating the BIA on improving OFA’s effectiveness and speed. The GAO also noted considerable lags in determinations and urged that the 2002 strategic plan be fully implemented.

Others have recommended that the acknowledgment process be taken out of the hands of the BIA; they argue that it would be best to create an independent commission responsible for deciding acknowledgment claims. This option gained support in the mid- to late 1990s, and several bills proposing this change have been introduced in Congress. However, these have not been successful, and with improvements made in response to GAO and other critiques, it appears likely that the federal acknowledgment process will remain housed within the BIA.

See also *Bureau of Indian Affairs (BLA); Gaming; Indian Arts and Crafts Act of 1990; Native American Graves Protection and Repatriation Act; Tribal Acknowledgment (State).*

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BIBLIOGRAPHY

- Beinart, Peter. “Lost Tribes: Native Americans and Government Anthropologists Feud over Indian Identity.” *Lingua Franca* (May/June 1999): 33–41.
- Blu, Karen I. *The Lumbee Problem: The Making of an American Indian People*. New York: Cambridge University Press, 1980.
- Campisi, Jack. “New England Tribes and Their Quest for Justice.” In *The Pequots in Southern New England: The Fall and Rise of An American Indian Nation*, edited by Laurence M. Hauptman and James D. Wherry. Norman: University of Oklahoma Press, 1990.
- Cramer, Renee Ann. *Cash, Color, and Colonialism: The Politics of Tribal Acknowledgment*. Norman: University of Oklahoma Press, 2005.
- McCulloch, Anne Merline, and David E. Wilkins. “Constructing Nations within States: The Quest for Federal Recognition by the Catawba and Lumbee Tribes.” *American Indian Quarterly*, vol. 19, no. 3 (Summer 1995): 361–388.

- Miller, Bruce. "After the F.A.P.: Tribal Reorganization after Federal Recognition." *Journal of Ethnic Studies*, vol. 17, no. 2 (1990): 89–100.
- Miller, Mark Edwin. *Forgotten Tribes: Unrecognized Indians and the Federal Acknowledgment Process*. Lincoln: University of Nebraska Press, 2004.
- Paredes, J. Anthony. "Federal Recognition and the Poarch Creek Indians." In *Indians of the Southeastern United States in the Late Twentieth Century*. Tuscaloosa: University of Alabama Press, 1992.
- "Procedures for Establishing That an American Indian Group Exists as an Indian Tribe." *Code of Federal Regulations*, title 25, sec. 83.1–83.13. Rev. April 1, 2008. www.gpoaccess.gov/cfr.
- Quinn, William W. "Federal Acknowledgment of American Indian Tribes: The Historical Development of a Legal Concept." *American Journal of Legal History*, vol. 34 (1990): 331–364.
- . "The Southeast Syndrome: Notes on Indian Descendant Recruitment Organizations and Their Perceptions of Native American Culture." *American Indian Quarterly*, vol. 14, no. 2 (Spring 1990): 147–154.
- Slagle, Allogan. "Unfinished Justice: Completing the Restoration and Acknowledgment of California Indian Tribes" *American Indian Quarterly*, vol. 13, no. 4 (Fall 1989): 325–345.
- Starna, William. "The Southeast Syndrome: The Prior Restraint of a Non-Event." *American Indian Quarterly*, vol. 15, no. 1 (Fall 1991): 493–502.
- U.S. Department of the Interior. Bureau of Indian Affairs. Office of Federal Acknowledgment. "Brief Overview of 25 CFR Part 83 Criteria." www.doi.gov/bia/ofa.
- U.S. Government Accountability Office. *Indian Issues: Improvements Needed in Tribal Recognition Process*. GAO-02-49. November 2, 2001. www.gao.gov.
- . *Indian Issues: Timeliness of the Tribal Recognition Process Has Improved, but It Will Take Years to Clear the Existing Backlog of Petitions*. GAO-05-347T. February 10, 2005. www.gao.gov.

Tribal Acknowledgment (State)

The primary relationship in U.S. Indian policy is the relationship between the federal government and the various tribal governments that the United States recognizes. However, tribal-state relationships are increasingly important and often are signified by state recognition of tribal units.

Not all tribes in the United States have federal recognition, and although many tribal groups are attempting to go through the federal recognition process, a significant number of tribal groups without federal recognition also seek state recognition of their status. Some do so as a precursor to federal recognition; others simply want to establish a formal relationship with the state in which they are located and do not apply for federal recognition. State governments have provided formal recognition to more than sixty tribes in the United States. These tribes are located in sixteen different states: Alabama, California, Connecticut, Georgia, Kentucky, Massachusetts, Michigan, Minnesota, Montana, New Jersey,

North Carolina, Ohio, Oklahoma, South Carolina, Vermont, and Virginia.

The benefits of state recognition vary from state to state. In most jurisdictions, state recognition confers benefits such as eligibility for scholarship money and social services. State recognition usually also entails formal representation of the tribe in state governance, usually through a state Office of Indian Affairs or a state-level committee that covers issues concerning Indians. In some areas, state recognition allows for tribal police forces, fire and ambulance protection, and educational systems. Finally, states that allow formal recognition to nonfederally recognized tribes often have educational programs in place to teach the non-Native population about indigenous issues and Indian culture.

Responsibilities for establishing and participating in a state-recognized relationship also vary from state to state. Most states require tribal groups to show a particular lineage or heritage and to show that their lineage reaches back to a historical tribe indigenous to the region. Some states mirror the federal recognition requirements in mandating that tribes show that they have maintained their political or social community; other states require prior treaty relationships to grant state recognition to a tribe that remains federally unrecognized.

The states also have different mechanisms for extending state recognition. Some states recognize tribes through specific pieces of legislation, usually passed at the urging of the tribal group in question, and through the policy initiative of the state representative or senator for their electoral district. Other states rely on administrative action through the state's Office of Indian Affairs, which may or may not include pan-tribal voices weighing in on the groups' recognition. Still other instances of state recognition have occurred through individual cases of gubernatorial extension of recognition, often in response to state judicial decisions mandating such recognition.

State recognition alone (in the absence of federal recognition or acknowledgment) does not grant tribes any privileges to casino gaming, reservation status for land, or federal programs for American Indians. Because of this, state recognition has been seen as a primarily honorary designation, meant to acknowledge Indian identity and historical ties to the state, rather than tribal status. However, state recognition now confers the expectation that states and tribes will negotiate over issues such as voting rights, local taxation policy, development in the region, and water and land rights. In

addition, state recognition increasingly is seen as politically necessary for tribes seeking federal acknowledgment. Accordingly, it has become more controversial and contested. Some states even have rescinded recognition of tribes as they were in the process of seeking federal acknowledgment.

See also *Tribal Acknowledgment (Federal)*.

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BIBLIOGRAPHY

- Cramer, Renee Ann. *Cash, Color, and Colonialism: The Politics of Tribal Acknowledgment*. Norman: University of Oklahoma Press, 2005.
- Fixico, Donald. "Federal and State Policies and American Indians." In *A Companion to American Indian History*, edited by Philip J. Deloria and Neal Salisbury, 379–396. Malden, Mass.: Blackwell, 2002.

Tribal Citizenship

Tribal citizenship, as it is understood today, came into being with Indian Reorganization Act (IRA) governments. Tribes that adopted the IRA were presented, among other things, with the opportunity to create constitutionally based governments.

From the Non-Intercourse Acts (also known as the Trade and Intercourse Acts) of the late 1700s to the passage of the Indian Reorganization Act of 1934, the federal government largely did not require proof of tribal citizenship. Prior to the kind of governments created under the IRA, American Indian nations regulated citizenship through kinship systems, clan membership, residency, ceremonial practices, languages, and a wide variety of other practices. These systems were often fluid and based on reciprocal responsibility. Today, tribes deal with citizenship regulations internally. Tribes have a base roll that delineates original citizens and citizenship committees to determine eligibility as well as to resolve disputes that might arise.

Tribal Rolls

Tribal rolls are the primary documents employed by tribal governments to track and often determine tribal citizenship. A tribal roll is a current list of individuals recognized as tribal citizens. A base roll is a list of the "original" citizens of a tribe. Tribes have used a variety of rolls including annuity rolls—lists of individuals eligible to receive annual treaty payments made to citizens of a particular tribe—to establish a base roll from which future citizenship is determined. For example, the Dawes Rolls, which list individuals who received land allotments, are used as base rolls by the

Cherokee, Choctaw, Chickasaw, Creek, and Seminole nations. Tribal citizens must trace descent from a parent (or other lineal ancestor) on the base roll in order to qualify for tribal citizenship.

Base rolls are not always complete. For example, there were Indians who did not agree with the allotment process and, therefore, did not sign up for an allotment nor appear on the Dawes Rolls. Even though many of these individuals were considered citizens in the tribe, they and their descendants are not recognized tribal citizens. In addition, there were Indians who applied for allotments but were rejected due a variety of factors, most often for failing to meet a residency requirement. It is difficult to establish whether these individuals were considered as citizens in the tribe; nonetheless, they and their descendants do not qualify for tribal citizenship.

Most tribes have enrollment offices and specific procedures to address disputes that arise from incomplete base rolls. While there are instances in which individuals have been able to prove that their ancestor was wrongly omitted from the Dawes Rolls or other base roll, and subsequently have been approved for tribal citizenship, this is often a complicated process. As law professor Carol Goldberg has observed, "Once a roll is established as the basis for citizenship, it becomes politically difficult to expand citizenship beyond its confines" ("Members Only," 2006). It is the responsibility of the tribe to amend, maintain, and define tribal rolls.

Rights and Regulations of Tribes

One of the vital powers of American Indian nations is the ability to determine and control citizenship. Tribal citizenship, sometimes also referred to as membership or enrollment, is recognition of an individual's legal status and is the primary way in which the distinct and unique political status of American Indians is established and documented. Tribes' power to govern citizenship enables them to effectively manage the distribution of resources, including reservation lands, hunting and fishing privileges, health care, and tribal monies. Leading legal scholar Felix S. Cohen asserted: "The courts have consistently recognized that one of an Indian tribe's most basic powers is the authority to determine questions of its own membership. A tribe has power to grant, deny, revoke, and qualify membership" (*Handbook of Federal Indian Law*, 1982.)

American Indian nations establish and regulate tribal citizenship within their constitutions. For example, the Pueblo of Santa Clara, New Mexico, defined citizenship provisions

in their original IRA constitution (1935: 2), in Section 2, which is termed “Membership.”

Sec. 1. *Conditions of membership.*—The membership of the Santa Clara pueblo shall consist as follows:

- (a) All persons of Indian blood whose names appear on the census roll of the Santa Clara pueblo as of November 1, 1935 provided that, within one year from the adoption and approval of this constitution corrections may be made in the said roll by the pueblo council with the approval of the Secretary of the Interior.
- (b) All persons born of parents both of whom are members of the Santa Clara pueblo.
- (c) All children of mixed marriages between members of the Santa Clara pueblo and nonmembers. Provided such children have been recognized and adopted by the council.
- (d) All persons naturalized as members of the pueblo.

Sec. 2 *Naturalization.*—Indians from other pueblos or reservations who marry a member of Santa Clara pueblo may become members of the pueblo, with the assent of the council, by naturalization. To do this they must (1) go before the pueblo council and renounce allegiance to their tribe and declare intention of becoming members of the Santa Clara pueblo. They shall swear that from that date they will not receive any benefits from their people, except through inheritance. (2) A year later they shall go before the pueblo council again, swear allegiance to the pueblo of Santa Clara and receive membership papers; provided, they have kept their promise from the time of their first appearance before the pueblo council.

The Santa Clara pueblo later passed an ordinance restricting citizenship to those persons with an enrolled father. Julia Martinez, a tribal citizen, and her daughter challenged this patrilineal tribal citizenship provision, arguing that it violated “equal protection” as defined under the Indian Civil Rights Act of 1968. The tribe maintained that its citizenship requirements were culturally based. In 1978 the Supreme Court upheld the right of tribes to determine their own citizenship. Often acclaimed as one of the strongest judicial statements in support of tribal sovereignty and the practice of tribal culture, *Santa Clara Pueblo v. Martinez* is one of the

most frequently cited Indian law cases of the modern era.

Many tribes have very straightforward citizenship regulations. For example, the Oklahoma Chickasaw Nation’s constitution states (1979: I):

Section I. The Chickasaw Nation shall consist of all Chickasaw Indians by blood whose names appear on the final rolls of the Chickasaw Nation approved pursuant to Section 2 of the Act of April 26, 1906 (34 Stat. 137) and their lineal descendants.

Section 2. The Tribal Council shall have the power to enact ordinances governing future citizenship and loss of citizenship within the Chickasaw Nation.

Reflecting the diversity among American Indian nations, there is a wide variety of citizenship requirements. Some of the most common features of tribal citizenship specifications are:

- 1) minimum percentage of tribal descent (often one-quarter, calculated as blood quantum from an ancestor(s) listed on a base roll);
- 2) minimum percentage of Indian descent (often one-quarter, calculated as blood quantum from an ancestor(s) living in North America before European contact);
- 3) place of birth (or parents’ residence at the time of birth);
- 4) lineal descent from a tribal member listed on a base roll (may be matrilineal, patrilineal, or bilateral);
- 5) adoption or naturalization (frequently limited to descendants of current citizens, Indians, or relatives of current citizens).

These distinct citizenship provisions serve the specific interests of their respective tribal nations. Citizenship requirements are not exclusively political but are interconnected with cultural, social, and economic aspects of tribal life. Indeed, citizenship requirements are a way of determining identity. These regulations are one way tribes can put their cultural beliefs into practice as well as offer an answer to the fundamental question: Who are we? Yet, federal law and policy have had both direct and indirect impacts on tribal citizenship provisions.

Federal Influence and Intervention

Despite the courts’ official recognition that American Indian nations have the right to determine their own citizenship

requirements, the Bureau of Indian Affairs (BIA) has interfered in tribal citizenship regulations. Indeed, the IRA required the secretary of the interior's approval of tribal constitutions for all tribes who organized under the act's terms. As tribes adopted constitutions in accordance with the IRA, the secretary "suggested" and "encouraged" (sometimes quite aggressively) that tribes require both parents to be tribal citizens, that the parents must reside on the reservation of their tribe, or that the child have a minimum blood quantum (either one-half or one-quarter) to qualify for citizenship. Reflecting nineteenth- and early twentieth-century European-American theories of race, blood quantum is a biological measure of ancestry from specific tribes as well as American Indian nations as a whole. During this period, it was believed that "blood" was literally the way in which a variety of things, including intelligence and cultural characteristics, were transmitted. It also served as a means for the U.S. government to limit the number of individuals who legally qualified to be Indian.

It was the policy of the BIA to "urge and insist" that citizenship not be automatically conferred upon all children of tribal citizens but be limited to those who would likely participate in tribal affairs. For example, in the 1940s when the Minnesota Chippewa Tribe (MCT) passed citizenship resolutions that did not conform to the recommendations of the BIA and only required lineal descent, the resolutions were rejected by the secretary. Twenty years later, when the MCT finally passed a resolution requiring one-quarter blood quantum minimum for tribal citizenship, the BIA approved the tribe's amended constitution. Under pressure from the BIA, many tribes ultimately adopted the suggested one-quarter blood quantum minimum to be eligible for citizenship. Scholars have criticized the BIA's push for the use of blood quantum as a guise for termination and a way of racializing, and therefore politicizing, the nature of American Indian identity.

In 2001 the BIA refused to approve changes to the Lac Courte Oreilles Band of Lake Superior Chippewa Indians' constitution. An amendment substituting lineal descent for the blood quantum requirement for tribal citizenship had passed. The BIA objected to the change and held that the "wrong class" of voters had been allowed to vote on the amendment because absentee ballots had been used in the referendum but were not used in the original vote adopting the constitution decades earlier. Absentee ballots are a regular part of the vast majority of tribal elections; through a series of letters to the tribe, it became clear that the BIA real-

ly objected to the change in citizenship regulation. In *Thomas v. United States* (7th Cir. 1999), a federal court overturned the bureau's rejection of the amendments.

Furthermore, there have been recent controversies between the United States and several Oklahoma tribes, including the Cherokees, over the legitimacy of citizenship and voting rights for descendants of freedmen (freed African slaves who were once owned by tribal citizens and lived with the tribe). When the Oklahoma Seminoles adopted a referendum restricting the full citizenship rights of freedmen, including the right to vote, the BIA refused to recognize the political leaders selected through tribal election. The BIA has also overstepped the authority of the tribal government, administering federal programs directly rather than through the tribe. Disputes and controversies over the right of American Indian nations to determine their own citizenship requirements and the authority of the BIA are ongoing.

New Directions in Tribal Citizenship

Declining enrollment and cultural revitalization have influenced many tribes to consider constitutional changes, including how best to define citizenship criteria. In addition, the 1988 amendments to the IRA have allowed American Indian nations greater freedom to assess their constitutions, including citizenship requirements, and to bring them into closer alignment with the current and future needs of the community. Many of the tribes undergoing constitutional reform will have to decide whether continuing to emphasize race as the sole criterion for citizenship is the best way to define their nation or if other means are more effective in practicing their cultural values. For many American Indian nations, this is not an easy choice because of the popular conception that there is a direct correlation between race (blood quantum) and culture. Some American Indians believe that by requiring a certain blood quantum for tribal citizenship the culture will endure. Concerns about loss of culture are valid, but culture must be practiced in order to endure, and one could argue that a blood quantum does not guarantee adherence to cultural values. Culture is not passed through blood but through relationships in which children are taught appropriate behavior, values, and beliefs. Legal scholar Scott L. Gould warns: "Cultural survival for most tribes may depend on eliminating race as the essential criterion for membership" ("Mixing Bodies and Beliefs," 2001). It is not only cultural practices that are at stake, it is American Indian nations themselves; without a strong body of citizens, the nations will effectively "disappear."

As the racial diversity of American Indians continues to increase, questions abound as to how a viable citizenship base can be maintained using racial standards such as one-quarter blood quantum. Indeed, American Indians are the most racially diverse of any group in the United States, and they have the highest rates of intermarriage. In 1987 demographer Russell Thornton argued that “a point will be reached—perhaps not too far in the future—when it no longer will make sense to define American Indians in genetic terms, only as tribal members” (*American Indian Holocaust and Survival*, 1987).

Ultimately, tribes must evaluate their specific circumstances and goals to determine the kinds of citizenship provisions that will satisfy their particular needs and lead their nations into the future.

See also *Blood Quantum*; Bureau of Indian Affairs (BIA); *Citizenship: United States and State*; *Freedmen*; *Indian Reorganization Act of 1934*; *Santa Clara Pueblo v. Martinez* (1978); *Trade and Intercourse Acts*.

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BIBLIOGRAPHY

- American Indian Law and Policy Center, www.airpi.org.
- Doerfler, Jill. “Fictions and Fractions: Reconciling Citizenship Regulations with Cultural Values Among the White Earth Anishinaabeg.” PhD diss., University of Minnesota, 2007.
- Garrouette, Eva Marie. *Real Indians: Identity and the Survival of Native America*. Berkeley: University of California Press, 2003.
- Goldberg, Carol. “Members Only: Designing Citizenship Requirements for Tribal Nations.” In *American Indian Constitutional Reform and the Rebuilding of Native Nations*, edited by Eric D. Lemont. Austin: University of Texas Press, 2006.
- Gould, Scott L. “Mixing Bodies and Beliefs: The Predicament of Tribes.” *Columbia Law Review*, vol. 101, no. 4 (May 2001): 702–772.
- Harmon, Alexandra. “Tribal Enrollment Councils: Lessons on Law and Indian Identity.” *Western Historical Quarterly*, vol. 32 (Summer 2001): 175–200.
- Meyer, Melissa L. “American Indian Blood Quantum Requirements: Blood is Thicker than Family.” In *Over the Edge: Remapping the American West*, edited by Valerie J. Matsumoto and Blake Allmendinger. Berkeley: University of California Press, 1999.
- Newton, Nell Jessup, ed. *Cohen’s Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005.
- O’Brien, Sharon. *American Indian Tribal Governments*. Norman: University of Oklahoma Press, 1989.
- Santa Clara Pueblo v. Julia Martinez*, 36 U.S. 49 (1978).
- Spruhan, Paul. “The Origins, Current Status, and Future Prospects of Blood Quantum as the Definition of Membership in the Navajo Nation.” *Tribal Law Journal*, Forthcoming. Available via Social Science Research Network, <http://ssrn.com/abstract=1138302>.
- Sturm, Circe. *Blood Politics: Race, Culture, and Identity in the Cherokee Nation of Oklahoma*. Berkeley: University of California Press, 2002.
- Thornton, Russell. *American Indian Holocaust and Survival: A Population History Since 1492*. Norman: University of Oklahoma Press, 1987.
- . “Tribal Membership Requirements and the Demography of ‘Old’ and ‘New’ Native Americans.” In *Changing Numbers, Changing Needs: American Indian Demography and Public Health*, edited by Gary D. Sandefur, Ronald R. Rindfuss, and Barney Cohen. Washington, D.C.: National Academies Press, 1996.
- Valencia-Weber, Gloria. “Santa Clara Pueblo v. Martinez: Twenty-five Years of Disparate Cultural Visions.” *Kansas Journal of Law and Public Policy*, vol. 14, no. 1 (2004): 49–59.
- Wilkins, David E. *American Indian Politics and the American Political System*. Lanham, Md.: Roman and Littlefield, 2002.

Tribal Courts

The power of Indian tribes to resolve conflicts derives from their inherent sovereignty. Long before the establishment of tribal courts, Indian tribes had various means to regulate the behavior of tribal members, address offenses against individuals and the tribe, and resolve private disputes. Depending on the tribe, the authority to adjudicate might belong to an individual, a society, a clan, or the tribe as a whole. These various methods of conflict resolution served the same purposes as courts do today.

Establishment of Tribal Courts

The development of formal tribal “courts” was an outgrowth of interactions between tribes and the United States. In some cases, tribes voluntarily adopted Western-style court systems. The Cherokee Nation, for example, in 1820 created a judicial branch based on the American model, with district and circuit courts. In most cases, however, the first tribal courts were creations of the Department of the Interior during the nineteenth century. Indian agents on reservations acted as *de facto* judges, and in 1883 Secretary of the Interior Henry M. Teller authorized the establishment of Courts of Indian Offenses. These courts had been established on about two thirds of all reservations by 1900 and operated under the Code of Indian Offenses as agents of assimilation as much as or more than judicial bodies.

With the end of the allotment and assimilation era of federal Indian policy and the enactment of the Indian Reorganization Act (IRA) in 1934, federal policy focused on the revitalization of tribal governments. Tribes were authorized to form constitutional governments, but the standard IRA constitution did not establish a separate judicial branch. New regulations for the Courts of Indian Offenses (known as CFR courts) were adopted by the Department of the Interior in 1935, however, specifying that tribes had the right to create their own courts and laws to supplant the CFR courts and codes of Indian offenses.

Over the course of the second half of the twentieth century and continuing to the present day, more and more tribes have established tribal courts. By the year 2000, more than 140 Indian tribes had active tribal courts. Some of these courts were established by tribal constitutions, but more commonly they were established by tribal legislation. Some tribes, particularly smaller tribes without substantial financial resources and tribes subject to Public Law 280, may choose not to establish separate tribal courts. Under Public Law 280, enacted in 1953, state courts have jurisdiction to adjudicate all disputes involving Indians in Indian Country. Because that forum is available, tribes may decide not to expend limited resources on a tribal court. Tribes that do not have tribal courts may establish a CFR court under federal regulations; the CFR court serves as the judicial body for the tribe until it creates its own tribal court by constitutional amendment or legislation. In addition to the tribal courts and CFR courts that operate on an adversarial model, some Indian tribes have established more traditional dispute-resolution options, often known as Peacemaker Courts, offered as a voluntary option to traditional litigation.

Laws in the Tribal Courts

The laws that tribal courts enforce are often a blend of Anglo-American legal tradition and tribal culture. Many tribal codes, for example, are divided into criminal and civil laws, even though tribes may not have made that distinction prior to contact. Tribal courts are charged first with enforcing tribal laws, whether those tribal laws are enacted by tribal legislatures or represent tribal common law or custom. If there is no tribal law on a particular issue, some tribal codes specify that the tribal court should look to the laws of the surrounding state to fill in the gaps. Tribal courts also apply federal law where appropriate.

In addition, tribal courts are bound by the federal Indian Civil Rights Act of 1968. Under that statute, all branches of tribal government, including tribal courts, must ensure due process and equal protection of the laws for all persons. In determining due process and equal protection, many tribal courts borrow from federal law. Other tribal courts, however, are developing a body of tribal due process and equal protection. The federal statute also limits the criminal penalties that tribal courts may impose to one year in jail or a \$5,000 fine or both for each offense.

Jurisdiction of Tribal Courts

The jurisdiction of tribal courts is limited by federal law and may be restricted by tribal law. Some tribes choose to grant

their tribal courts the authority to hear all matters that arise within the reservation, whereas other tribes choose to give the tribal courts authority to hear only certain types of cases. Federal law, by contrast, primarily limits the ability of tribal courts to hear cases involving non-Indians or nonmembers of the tribe and places greater restrictions on criminal jurisdiction than on civil jurisdiction.

Under federal law, tribal courts have no criminal jurisdiction over non-Indians. In the 1978 case of *Oliphant v. Suquamish Tribe*, Mark Oliphant, a non-Indian, assaulted a tribal police officer and was prosecuted in tribal court. When the case reached the U.S. Supreme Court, however, it held that such jurisdiction was “inconsistent with” tribal status. Tribal courts do, however, retain full jurisdiction to hear criminal cases against all Indians, whether members of the prosecuting tribe or not. In some circumstances, the federal government has taken criminal jurisdiction over Indians, including the authority to prosecute major crimes committed by Indians against anyone and other crimes when committed by Indians against non-Indians. Even where the federal government has jurisdiction, Indian tribal courts retain concurrent jurisdiction to try all criminal cases where the defendant is an Indian. In the case of minor crimes committed by Indians against non-Indians, federal law provides that the federal government may only prosecute if the tribe has not. In the case of minor crimes committed by Indians against other Indians, the tribal courts have exclusive jurisdiction.

Tribal courts also retain jurisdiction to hear civil cases involving persons who are not members of the tribe. Cases where both parties are members of the tribe are generally within the exclusive jurisdiction of the tribal courts, as are cases brought by nonmembers against tribal members. Thus, in the 1959 case of *Williams v. Lee*, Hugh Lee, who owned a trading post on the Navajo reservation, sued Paul and Lorena Williams in Arizona state court to collect for goods he had sold them on credit. Although the Arizona courts heard the case, the Supreme Court held that state courts had no jurisdiction to hear this action and that exclusive jurisdiction belonged to the tribal court. By contrast, if both parties to a civil case are nonmembers, the tribal courts will generally not have jurisdiction even though the dispute arose in Indian country. Thus, in the case of *Strate v. A-1 Contractors* (1997) the Supreme Court held that a tribal court did not have authority to hear a lawsuit arising out of an on-reservation traffic accident between two non-Indians.

If a case is brought by a tribal plaintiff against a defendant who is not a member of the tribe, tribal court jurisdiction to

hear the lawsuit is limited. Under the Supreme Court ruling in *Montana v. United States* in 1981, reaffirmed in 1997 in *Strate*, tribal courts may hear cases against nonmember defendants only in two circumstances. One occurs when the nonmember has entered into some kind of consensual relationship with the tribe or its members, such as a contract or a lease. The other occurs when the nonmember defendant's conduct has adverse effects on core tribal government interests such as the health, safety, and welfare of its people. Although tribal courts and some lower federal courts have found situations where nonmember defendants meet these tests, the Supreme Court has interpreted the tests narrowly. In *Strate*, for example, the Court acknowledged that nonmembers driving recklessly within the reservation "surely jeopardize the safety of tribal members" but concluded that even that jeopardy was not enough to uphold tribal court jurisdiction.

If a nonmember of a tribe is a party to a lawsuit in tribal court, the nonmember must generally pursue any tribal remedies that are available, including appeal to a tribal appellate court. Even if the nonmember files suit in federal court or attempts to enjoin tribal court proceedings in federal court, the federal courts generally invoke the "exhaustion doctrine" to require the nonmember to exhaust all available tribal court avenues of challenging tribal jurisdiction. Once those tribal remedies are exhausted, however, the nonmember may file suit in federal court seeking review of the tribal court's determination that it had jurisdiction to hear the case. This is not an appeal; federal courts have no authority to hear appeals from tribal courts and no authority to review tribal court rulings on tribal law matters. Postexhaustion, the federal court's jurisdiction on review is limited to the issue of tribal court jurisdiction as a matter of federal law.

See also *Courts of Indian Offenses; Crime, Regulating in Indian Country; Exhaustion Doctrine; Indian Civil Rights Act (1968); Indian Reorganization Act (1934); Law Enforcement in Indian Country; Major Crimes Act (1885); Montana v. United States (1981); Oliphant v. Suquamish Indian Tribe (1978); Peacemaker Courts; Public Law 280 (1953); Reservations; Teller, Henry M.; Williams v. Lee (1959).*

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BIBLIOGRAPHY

- Brown, Howard L. "The Navajo Nation's Peacemaker Division: An Integrated, Community-Based Dispute Resolution Forum." *American Indian Law Review* 24 (2000) 297–308.
- French, Laurence, ed. *Indians and Criminal Justice*. Totowa, N.J.: Allenheld, Osmun, 1982.

- Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005. Suppl. 2007.
- Newton, Nell Jessup. "Tribal Court Praxis: One Year in the Life of Twenty Indian Tribal Courts." *American Indian Law Review* 22 (1998) 285–353.
- Pommersheim, Frank. *Braid of Feathers: American Indian Law and Contemporary Tribal Life*. Berkeley: University of California Press, 1995.
- Prucha, Francis Paul. *The Great Father: United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Strickland, Rennard. *Fire and the Spirits: Cherokee Law from Clan to Court*. Norman: University of Oklahoma Press, 1975.
- Schwartz, April, and Mary Jo B. Hunter. *United States Tribal Courts Directory*. Buffalo, N.Y.: William S. Hein, 2002.

Tribal Employment Rights Ordinances (TEROS)

Indian tribes may enact tribal employment rights ordinances (TEROs), which govern all employment on tribal land. They also apply to other types of contractual relationships with tribes. Their purpose is to ensure Indian employment to the fullest extent in such business operations through hiring and job-training preferences. TEROs generally authorize tribes to specify a minimum number of Indians to be employed and set goals and timetables for hiring, prohibit use of hiring procedures that tend to disqualify Indians, require employers to provide or participate in training programs for Indians, establish programs to assist Indians seeking employment or reemployment, assess fees to fund tribal employment programs, and develop any other programs or requirements to increase Indian employment.

Tribes have legislated two kinds of TEROs. One gives preference to Indians generally ("Indian preference"); the other gives preference to tribal citizens over other Indians ("tribal preference"). Indian preferences date back to the Indian Reorganization Act of 1934, when the U.S. Congress authorized preferences for Indians to fill vacancies in the Office of Indian Affairs (OIA, later renamed Bureau of Indian Affairs, BIA), and later the Indian Health Service (IHS), through hiring, lateral transfer, reassignment, and exemption from federal civil service requirements. Congress inserted Indian hiring preferences into Title VII of the Civil Rights Act of 1964 ("Title VII"), which prohibits employment discrimination because of race, national origin, sex, religion, and color. That act permits "preferential treatment" of Indians by employers "on or near a reservation," provided such policy has been publicly announced.

Indian preferences were upheld as constitutional by the U.S. Supreme Court in *Morton v. Mancari* (1974). The purposes of BIA and IHS preferences, the Court stated, are "to

give Indians a greater participation in their own self-government; to further the Government's trust obligations toward Indian tribes; and to reduce the negative effect of having non-Indians administer matters that affect Indian tribal life." The Court recognized Indians as distinct political groups. Therefore, Indian preferences are not impermissible racial distinctions, the Court concluded, but rather political distinctions that are reasonable and directly related to the BIA's staffing goals. The Court further found that Title VII's Indian preference reflected "longstanding federal policy" of allowing tribes to manage their own affairs by giving a unique legal status to Indians with respect to employment on or near Indian reservations.

With regard to tribal preferences, however, one federal court of appeals takes the position that tribal employment preferences amount to national origin discrimination under Title VII. Indian tribal employers are exempt from Title VII, but under this court's view outside employers operating businesses on tribal land, who are governed by a tribe's TERO, illegally discriminate when they hire based on tribal affiliation. The court equated tribal affiliation with "place of origin." However, in light of *Morton v. Mancari*'s characterization of Indian status as political status, tribal affiliation more accurately equates to citizenship. The Supreme Court held in *Espinoza v. Farah Manufacturing Company* (1973) that citizenship does not mean national origin, and distinctions based on citizenship do not violate Title VII.

See also *Employment, Regulation of; Indian Reorganization Act (1934); Morton v. Mancari (1974)*.

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BIBLIOGRAPHY

- Anderson, Kevin N. "Indian Employment Preference: Legal Foundations and Limitations." *Tulsa Law Review* 15 (1980) 733–771.
- Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005.

Tribal Rolls

See *Tribal Citizenship*.

Tribally Controlled Community College Assistance Act of 1978

On October 17, 1978, President Jimmy Carter signed the Tribally Controlled Community College Assistance Act of

1978. The act provided federal funds to tribal community colleges controlled by American Indians on Indian reservations.

With unemployment rates on reservations for those without a college degree at over 90 percent, tribal colleges provide the skills needed for Indians to join the workforce and improve their quality of life. However, low incomes and high unemployment on reservations means that tribal colleges have virtually no tax base to draw from, and colleges need federal aid to survive.

The assistance act originally provided grants of \$4,000 a year for each full-time student (Congress has since raised the per capita rate) to be used to operate and improve the college and expand opportunities for Native students. To be eligible for the grants, tribal colleges must be operated by a board comprised of a majority of Native Americans, be sponsored by a federally recognized tribe, and observe a stated mission of serving Native students. Initially, the federal government provided grants to nineteen eligible tribal colleges.

The act produced a dramatic expansion in the number of tribal community colleges, but the law did not resolve all of the problems with Indian higher education. While the act called for money to build new classrooms, laboratories, and libraries, the necessary appropriations did not follow; as a result, many classes continue to be taught in old government buildings or trailers.

Nevertheless, the Tribally Controlled Community College Assistance Act has significantly impacted Native education and employment. According to recent statistics, a student who attends a tribal college for even one year is forty times more likely to succeed at a non-Indian institution than a student who enters the institution directly. In addition, more than 30 percent of tribal college graduates continue their education beyond the community college level, and more than 80 percent of the graduates are employed.

See also *Carter, Jimmy; Education: Higher Education; U.S. Indian Policy: Congress and the Executive, 1960–* .

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BIBLIOGRAPHY

- Carnegie Foundation. *Tribal Colleges—Shaping the Future of Native America*. Lawrenceville, N.J.: Princeton University Press, 1989.
- Carney, Michael Cary. *Native American Higher Education in the United States*. Edison, N.J.: Transaction Publishers, 1999.

Tribal-State Relations

See *Citizenship: United States and State; States' Rights; State Treaties with Indian Tribes; Tribal Acknowledgment (State)*.

Trudell, John

John Trudell (1946– ; Santee Sioux) was active in many Native American protests of the 1960s and 1970s. Born on the Santee reservation in Nebraska, Trudell served in the U.S. Navy, including two tours in Vietnam. Trudell came to national prominence through the occupation of Alcatraz Island by Indians of All Tribes. He joined the occupation on November 19, 1969, and remained until U.S. officials ended the action on June 11, 1971. Best known for hosting Radio Free Alcatraz, Trudell broadcast from the island and interviewed Alcatraz residents, arranged dialogues about Indian culture, reported on national Indian affairs, and documented the Alcatraz occupation to an audience across North America.

In the spring of 1970, Trudell joined the American Indian Movement (AIM) and became its national spokesperson. He participated in the 1972 Trail of Broken Treaties, a national caravan of urban and reservation Indians who traveled to Washington, D.C., to protest federal Indian policies. The protestors occupied the headquarters of the Bureau of Indian Affairs (BIA) for a short time.

In 1973 Trudell was elected co-chair of AIM. That same year he participated in the occupation of Wounded Knee, a small town in the heart of the Pine Ridge Sioux Indian reservation in South Dakota. In 1976 Trudell coordinated the AIM support for the defense of Leonard Peltier, an Indian convicted of murdering two FBI agents in June 1975 on the Pine Ridge reservation. Tragically, on February 11, 1979, Trudell's wife, Tina, her mother, and the three Trudell children were burned to death in a fire (widely considered to be arson) in their Pine Ridge home that occurred just twelve hours after Trudell had burned an American flag on the steps of the FBI building in Washington, D.C.

An acclaimed poet, musician, and artist, Trudell travels worldwide making public appearances to bring attention to the mistreatment of Indian people, government indifference to honoring Indian treaties, and the continuing colonization of indigenous peoples.

See also *Alcatraz Island, Seizure of* (1969); *American Indian Movement (AIM)*; *Peltier, Leonard*; *Trail of Broken Treaties* (1972); *Wounded Knee* (1973), *Occupation of*.

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BIBLIOGRAPHY

Igliori, Paolo, ed. *Stickman: Poems, Lyrics, Talks by John Trudell*. New York: Inanout Press, 1994.

Johnson, Troy R. *The Occupation of Alcatraz Island: Indian Self-Determination and the Rise of Indian Activism*. Urbana: University of Illinois Press, 1996.

Truman, Harry S.

Harry S. Truman (1884–1972) served as president of the United States (1945–1953) during a transitional period in U.S. Indian policy. The Indian New Deal (1933–1945), a time when Congress and the Roosevelt administration attempted to reinvigorate tribal autonomy, had outworn its political viability in a more conservative Congress. Moreover, following World War II, liberal policy makers wanted to end discrimination against minorities, including Indians, and to integrate them into the wider nation. Such aims recalled past efforts to assimilate Indians and threatened tribes' rights held under treaties with the federal government.

The Truman administration acted to integrate Indians into mainstream society. In 1946 Truman signed legislation to form the Indian Claims Commission, an agency that resolved disputes between the federal government and tribes by compensating Indians for their property claims. The ICC plan promoted integration (or assimilation). Settlement of all claims was considered a step toward ending federal obligations to and responsibility for the tribes. In 1950 Truman approved \$88 million to "rehabilitate" the Navajos by building schools, hospitals, and roads to place the tribe's citizens "on a fair and equal basis with their neighbors" (Dean J. Kotlowski, "Burying Sergeant Rice," 2004). Most important, the Truman administration helped promote a policy, later known as termination, to end the federal-Indian trust relationship. Under termination, the federal government would end special programs for the tribes, tribal property would be distributed to individuals, tribal political institutions diminished or ended, and Indians would become subject to the same laws, state and federal, as all Americans. To that end, in 1947 Assistant Commissioner of Indian Affairs William Zimmerman proposed separating tribes into three categories based on "their readiness for the withdrawal of federal trust status" (Donald L. Fixico, *Termination and Relocation*, 1986). Commissioner of Indian Affairs Dillon S. Myer (1950–1953) also enthusiastically pushed for termination. In endorsing legislation to end federal supervision of tribes in California, he declared that "the time has come for the Indians in California to be treated the same as all other citizens" (Kotlowski, 2004). Tribes that wanted to retain their federal status and federal programs protested termination, and in the

President Harry S. Truman receives a beaded belt and necklace from a Comanche, center, during a White House visit in 1947. Truman supported the termination policy, one of many attempts to integrate Indians into mainstream society.



1950s an Indian rights movement emerged that had as one of its goals the repeal of termination.

Truman believed his policies were in the best interests of Indians and the nation as a whole. A native of Missouri, Truman was familiar with the history of American westward migration and conquest. He generally believed in the “noble savage,” the idea that Indians were virtuous peoples who only needed to be elevated by education to the same social and intellectual level as white Americans. Truman backed the construction of a monument in the Black Hills honoring Chief Crazy Horse, the victorious leader at the Battle of Little Bighorn (June 25, 1876), for he thought Crazy Horse was a “great Indian” who displayed “wholehearted” concern for his people’s welfare (Kotlowski, 2004). But that was the past. In Truman’s view, the time had arrived for Indians to join the mainstream on equal footing with other Americans. Accordingly, when a racially exclusive cemetery in Iowa denied burial in 1951 to Sergeant First Class John R. Rice, a Winnebago (Ho-Chunk) killed in Korea, Truman promptly arranged for Rice’s burial at Arlington National Cemetery.

Truman’s gesture reflected his aim of ensuring “equality for all people in the country” (Kotlowski, 2004). Such rhetoric, which inspired African Americans at the outset of the

civil rights movement, had less appeal among Indian activists who opposed assimilation and were committed to enhancing the sovereignty of the Indian nations. By the 1960s, such activists were demanding an end to termination and calling for the right of self-determination for the tribes.

See also *Crazy Horse*; *Indian Claims Commission Act*; *Indian Rights Movements*; *Myer, Dillon S.*; *Termination and Restoration*; *World War II, American Indians and*.

Dean J. Kotlowski

BIBLIOGRAPHY

- Fixico, Donald L. *Termination and Relocation: Federal Indian Policy, 1945–1953*. Albuquerque: University of New Mexico Press, 1986.
- Koppes, Clayton L. “From New Deal to Termination: Liberalism and Indian Policy, 1945–1953.” *Pacific Historical Review*, vol. 46, no. 4 (1977): 543–566.
- Kotlowski, Dean J. “Burying Sergeant Rice: Racial Justice and Native American Rights in the Truman Era.” *Journal of American Studies*, vol. 38, no. 2 (2004): 199–225.
- McCoy, Donald R., and Richard T. Ruetten. *Quest and Response: Minority Rights and the Truman Administration*. Lawrence: University Press of Kansas, 1973.
- Philp, Kenneth R. *Termination Revisited: American Indians on the Trail of Self-Determination, 1933–1953*. Lincoln: University of Nebraska Press, 1999.

Trust Lands

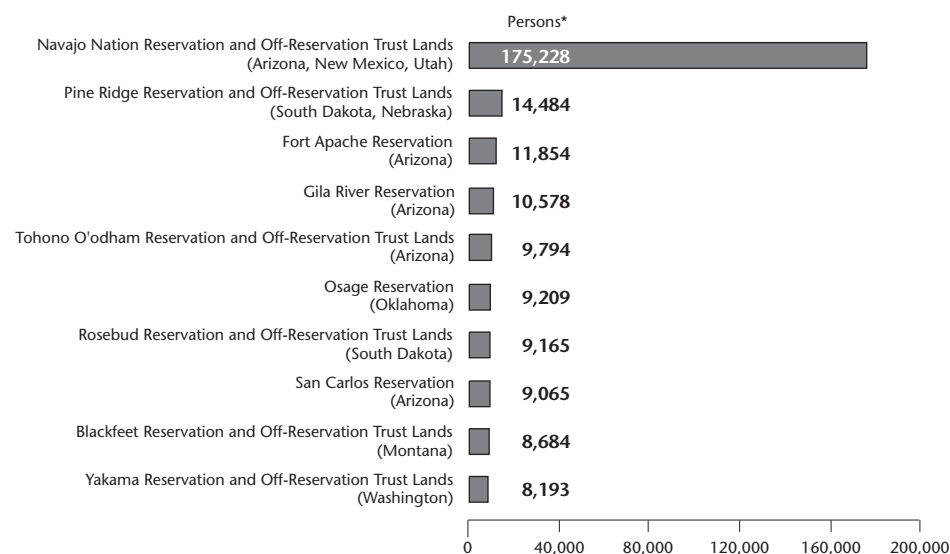
Indian trust lands are lands owned by the United States in fee status and held in trust for a particular Indian tribe, an Indian person, or a group of Indian persons. This arrangement is similar to a generic legal trust relationship, in which a grantor conveys property to a third-party trustee to be held for the benefit of another, the beneficiary. Thus, the Indian tribe, person, or group for whom the United States holds certain trust lands owns a beneficial interest in such lands. As a result, federal law prohibits a tribal or individual Indian beneficial owner from selling, leasing, mortgaging, encumbering, or otherwise disposing of all or any part of its interest in trust lands without federal government (that is, trustee) approval. Indian trust lands are similar in many respects to restricted fee lands (lands not formally held in trust by the United States but still subject to the same restrictions on alienability). However, they differ in the manner in which they were created.

Trust lands exist in a variety of land types, including Indian allotments (small tracts of land, historically between

40 to 160 acres, initially placed into trust for one Indian person), easements and rights-of-way taken into trust by the United States, and Indian reservations. Trust lands may be located within the boundaries of an Indian reservation (a reservation may contain parcels that are not in trust) or contiguous to an Indian reservation. In addition, trust lands may be located outside the boundaries of an Indian reservation, usually where the United States removed lands out of the public domain and placed them into trust for an Indian person who either was not affiliated with any particular Indian tribe or was a member of an Indian tribe that had lost its formal tribal status.

Trust lands are governed at the federal government level by the Bureau of Indian Affairs (BIA), within the Department of the Interior. Trust lands are further governed by the Indian tribe having jurisdiction over them. Only in rare instances will trust lands fall outside of any tribe's jurisdiction, such as when a trust allotment is located outside of an Indian reservation and is placed into trust for an Indian person who is not a member of an Indian tribe. Thus, the convening tribal government and the U.S. federal government possess concurrent

FIGURE 1: Ten Most Populated Reservations and Off-Reservation Trust Lands, 2000



* American Indian and Alaska Native alone or in combination.

Source: U.S. Census Bureau, 2000 Census.

The most populated trust land held by the United States government for Native Americans is that of the Navajo Nation. Trust lands are governed by the Indian tribe possessing jurisdiction over them and by the Bureau of Indian Affairs.

jurisdiction over Indian trust lands. Trust lands commonly constitute “Indian country,” the legal term (see 18 U.S.C. §1151) given to the area within which tribal and concurrent federal law and jurisdiction have control, and within which state law and jurisdiction generally cease.

Consequently, the state and local governments inside trust land boundaries lack most types of jurisdiction over those lands. A major exception exists for those states that have assumed jurisdiction to enforce state civil or criminal laws inside the Indian lands within their jurisdiction pursuant to the federal Public Law 280 (67 Stat. 588, 1953). Thus, state and local governments generally lack the power to impose taxes on trust lands, to tax tribal or tribal members’ income earned on trust lands, and to regulate the activity of Indians, tribes, and sometimes non-Indians within trust lands.

Tribally owned trust lands have historically been created by treaty, federal legislation, executive order, or any manner in which the federal government has deemed itself to hold certain lands in trust for an Indian tribe, band, pueblo, or community. Individually owned trust lands, or trust allotments, have also been created historically through the allotment (or partition into small tracts) of existing Indian reservations, usually through the General Allotment Act of 1887 or other similar federal legislation, or by the removal of small tracts of lands from the public domain. In the early twenty-first century, lands were placed into trust status through federal legislation, primarily through a special federal process (25 C.F.R. Part 151) whereby the United States accepts title to lands in trust for an Indian tribe or Indian person pursuant to the authority granted in the Indian Reorganization Act of 1934 (25 U.S.C. §465). A special federal process (25 C.F.R. Part 152) exists for removing lands from trust status, after which the beneficial owner possesses the lands in fee status, free of any restrictions on alienability.

An individually owned trust parcel may be owned by one or more Indian persons, or by non-Indian persons who have inherited their interest(s) from an Indian relative. In some cases, a single trust parcel may be owned by hundreds or even thousands of Indian persons, with certain beneficial owners entitled to sometimes very small portions of a trust parcel’s entire interest, frequently in portions of less than 1 percent. This circumstance, known as fractionation, has often caused considerable difficulty or delay in putting fractionated trust lands to use because of the general requirement that all beneficial owners must agree on the use to which their trust parcel may be put and the precise mechanism for doing so. The BIA, however, has enacted regulations that

require a majority of the interest holders in highly fractionated trust lands to consent to a lease of those lands. Similarly, Congress has attempted to remedy fractionation with special legislation, such as the Indian Land Consolidation Act of 1983 (P.L. 97–459) and its amendments, including the American Indian Probate Reform Act of 2004, seeking to halt or reverse the continued fractionation of trust lands that occurs when a trust land beneficiary bequeaths his lands to more than one person, usually to his children. Certain such laws have been held unconstitutional by the U.S. Supreme Court, and Congress continues to address the problem. Following Congress’s lead, the BIA in 2006 proposed regulations seeking to slow or reverse fractionation.

See also *Allotment in Severalty; Assimilation and Acculturation; General Allotment Act (Dawes Act) of 1887; Indian Land Consolidation Act (1983); Public Law 280 (1953).*

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BIBLIOGRAPHY

- Barsh, Russel Lawrence, and James Youngblood Henderson. “Contrary Jurisprudence: Tribal Interests in Navigable Waterways before and after *Montana v. United States*.” *Washington Law Review* 56 (1981): 627–685.
- Newton, Nell Jessup, ed. *Cohen’s Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005.
- United States v. Shoshone Tribe*, 304 U.S. 111 (1938).

Trust Responsibility Doctrine

The trust responsibility is a special relationship between the federal government and Indian tribes. The foundation of this unique relationship is the Indians’ trust in the United States to fulfill its promises made in exchange for land. The U.S. Supreme Court’s interpretations of this trust, in the so-called Marshall Trilogy cases decided between 1823 and 1832, still stand as the benchmark of the most important concept in Indian law. Specifically, the relationship stems from Chief Justice John Marshall’s decision in *Cherokee Nation v. Georgia* (1831) that the United States–Indian relationship “resembles that of a ward to his guardian.”

At its broadest interpretation the trust relationship includes legal duties, moral obligations, understandings, and expectations that originate with the federal government’s responsibility to its treaty obligations. In its narrowest sense, under general principles of the law and trusts, the United States, as trustee for American Indians, has a special obligation to manage Indian properties and monies in the best interest of the trust’s beneficiary.

In Indian law, the Bureau of Indian Affairs (BIA) is the branch of the government generally responsible for managing Indian property, monies, equipment, and trust lands for the benefit of tribes and tribal members. The trust obligation also applies to all federal agencies that deal with individual American Indians and tribes.

Trust obligations define the standard of conduct for government officials and for Congress. The Supreme Court and lower federal courts also have extended the principles of this trust, from the original obligation to honor treaty provisions, to include trust responsibilities created by agreements, federal statutes, executive orders, and administrative regulations. In *Menominee Tribe v. United States* (1968), the Supreme Court upheld that the trust relationship between an American Indian tribe and the federal government can be terminated only by an express act of Congress. The federal-Indian trust responsibility may be found to exist even if no specific federal statute or treaty addresses the situation in question. The courts may use the trust responsibility doctrine to prevent a federal or state agency from reducing Indian rights, provided Congress does not specify intent to limit those rights or to hold the federal government liable for money damages to tribes or Indians for breach of trust.

As with other judicial doctrines, the trust responsibility has been subject to change and refinement over the course of time. Consequently, the line between fiduciary trust principles and moral trust obligation sometimes is blurred.

See also *Bureau of Indian Affairs (BIA)*; *California Indians*; *Cherokee Nation v. Georgia*; *Cobell Litigation*; *Marshall, John*; *Trust Lands*; *U.S. Supreme Court and Indian Policy, 1789–1871*.

Angelique Eaglewoman
(Wambdi A. WasteWin)

BIBLIOGRAPHY

Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis 2005. Suppl. 2007.

Tuscarora War of 1711–1713

The Tuscarora War was a Native conflict waged against the Euro-American inhabitants of North Carolina. Although labeled the “Tuscarora War” by historians, neither were all the war’s combatants Tuscaroras, nor were all Tuscaroras involved. The Iroquoian Tuscaroras of the colony’s Neuse River Valley were the war’s best-known combatants, but their Algonquian Coree and Mattamuskeet allies harbored many of the same grievances and thus joined the war. A

band of Tuscaroras on Albemarle Sound led by Chief Tom Blunt was at peace with the provincial government and remained neutral in the conflict.

Friction caused by decades of interaction with their European neighbors spurred the Tuscaroras and their allies to war. White settlers, for instance, murdered Native hunters that “trespassed” onto their land. Occasionally, South Carolina slave traders captured Tuscaroras and other Indians from the region and sold them into slavery. The steady advance of European settlement in the Neuse River Valley homeland of the Tuscaroras and their allies was the war’s primary cause, however. In 1711 a group of 400 Swiss and Palatine immigrants led by Baron Christoph de Graffenried established the town of New Bern on Tuscarora land. Later, Tuscaroras witnessed Graffenried and North Carolina surveyor-general John Lawson traversing their territory clandestinely with surveyor’s equipment. Tuscarora and Coree chiefs, led by the Tuscarora chief Hancock, determined to resist the encroachment onto their territory.

The September 22, 1711, seizure of Graffenried and Lawson by the Tuscaroras signaled the outbreak of hostilities in the colony. After they ritually tortured and then burned surveyor Lawson at the stake (Graffenried was released), Tuscarora and Coree warriors fanned out across North Carolina and slaughtered 130 settlers, ransacked white settlements, and brought the province’s impotent government to its knees. Governor Edward Hyde pleaded with the Virginia and South Carolina governments for aid against the Tuscaroras, but only the latter government furnished material assistance.

In 1712 the Tuscaroras stymied a 1712 Anglo-Indian expedition commanded by South Carolinian John Barnwell. Tuscarora mastery of static fortifications and their timely capture of white hostages compelled Barnwell to suggest a truce. The following year, disgusted with Barnwell’s inconclusive campaign, South Carolina governor Charles Craven dispatched a second expedition under James Moore, whose Anglo-Indian army effectively ended the war when they torched the Tuscaroras’ stronghold of Narhantes and burned its 180 defenders to death.

At war’s end, only the neutral Tuscaroras of the Albemarle region remained in North Carolina. Tuscarora belligerents who survived the conflict sought refuge first in Virginia, where Lieutenant Governor Alexander Spotswood offered protection as “tributaries” to his government. Understandably wary of such subordination, the Tuscarora refugees instead trekked northward to the territory of their Iroquois

kin, where they settled among the Oneidas and eventually became the sixth nation of the Iroquois Confederacy.

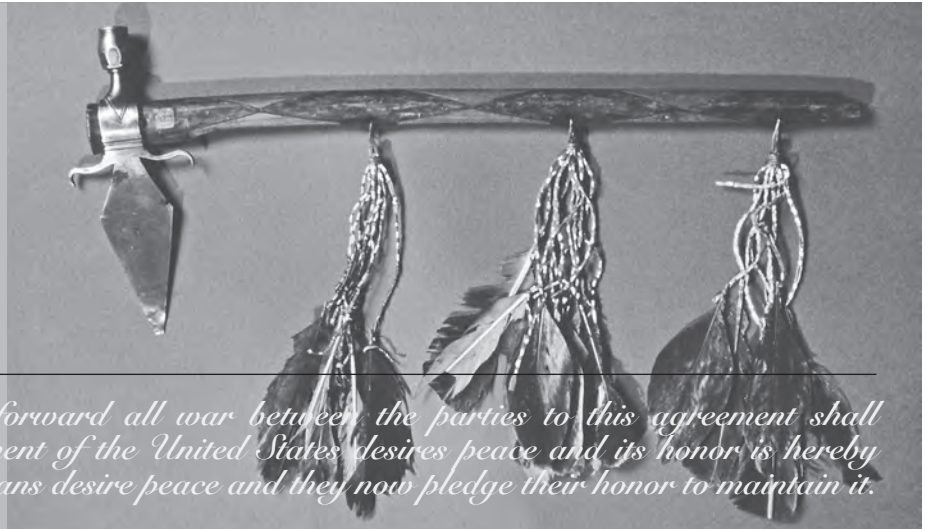
See also *League of the Iroquois*; *Slavery: Enslavement of Indians*.

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BIBLIOGRAPHY

- Boyce, Douglas W. “‘As the Wind Scatters the Smoke’: The Tuscaroras in the Eighteenth Century.” In *Beyond the Covenant Chain: The Iroquois and Their Neighbors in Indian North America, 1600–1800*, edited by James H. Merrell and Daniel K. Richter, 151–163. Syracuse, N.Y.: Syracuse University Press, 1987.
- Crane, Verner W. *The Southern Frontier, 1670–1732*. Ann Arbor: University of Michigan Press, 1929.
- Gallay, Alan. *The Indian Slave Trade: The Rise of the English Empire in the American South, 1670–1717*. New Haven, Conn.: Yale University Press, 2003.

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Article 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they now pledge their honor to maintain it.

Udall, Stewart L.

Stewart L. Udall (1920–), a Democrat, served as secretary of the interior from 1961 to 1969. Shortly after taking office, Udall convened a task force to study Indian affairs. Its recommendations served as the basis for Indian policy during the presidencies of John F. Kennedy and Lyndon B. Johnson. The task force advocated the development of economic and human resources on the reservations. However, it did not repudiate the termination policy then in effect, primarily because members of Congress committed to termination would have rejected such a proposal. This group, composed of senators from western states, discouraged Indian policy innovations throughout Udall's tenure in office. The secretary's poor relations with Philleo Nash, commissioner of Indian affairs from 1961 to 1966, also hampered creativity within the Bureau of Indian Affairs. Udall did not believe that Nash pushed hard enough for more radical reforms in U.S. Indian policy.

After Nash resigned, Udall decided to become involved personally in Indian affairs, promoting legislation known as the Indian Resources Development Act. Controversial measures regarding land leases ensured Indian opposition to the proposal, and Congress rejected it. To counter obstacles to the economic development of Indian communities, Udall championed programs outside the purview of congressional committees with oversight of Indian affairs. He supported initiatives such as Lyndon Johnson's War on Poverty on the reservations, thereby providing federal assistance to Indians without opposition from supporters of termination. Because these programs allowed for their local control, they advanced the self-determination of Native tribes. Thus although

Udall's tenure was not a period of significant new policy approaches or landmark legislation, it marked the important transition from termination to self-determination.

See also *Bureau of Indian Affairs (BIA); Interior, U.S. Department of the; Johnson, Lyndon B.; Kennedy, John F.; Nash, Philleo; Self-Determination; U.S. Indian Policy: Congress and the Executive, 1944–1962.*

Thomas F. Clarkin

BIBLIOGRAPHY

- Castile, George P. *To Show Heart: Native American Self-Determination and Federal Indian Policy, 1960–1975*. Tucson: University of Arizona Press, 1998.
- Clarkin, Thomas F. *Federal Indian Policy in the Kennedy and Johnson Administrations, 1961–1969*. Albuquerque: University of New Mexico Press, 2001.
- Riggs, Christopher K. "Indians, Liberalism, and Lyndon Johnson's Great Society, 1963–1969." PhD diss., University of Colorado, 1997.

United Nations

The United Nations (UN), established in 1945 among member nations to promote peace and international security, has had an evolving policy toward indigenous peoples, including American Indians.

In 1948 the UN created a subcommittee to study the social problems of Native Americans, but nothing came of it. The wave of decolonization that followed World War II focused greater attention on indigenous peoples. Following studies of indigenous workers' vulnerabilities, in 1957 the International Labour Organisation (ILO), an agency of the UN, adopted ILO Convention No. 107. Although Convention No. 107 called for improved social and eco-

conomic conditions for indigenous workers, its thrust, in keeping with U.S. policy at the time, was assimilationist. The 1960s through the 1980s saw increased efforts by indigenous peoples to bring attention to their demands to retain their separate identities and cultural heritage.

A turning point for Native Americans came in 1970, when the UN's Sub-Commission on the Prevention of Discrimination and Protection of Minorities recommended that a comprehensive study be made of discrimination against indigenous populations. Indigenous people are defined as descendants from population groups present in a given area, most often before modern states or territories were created and before modern borders were defined, who maintained cultural and social identities and social, economic, cultural, and political institutions separate from mainstream or dominant societies and cultures.

As a result of the subcommission's report, the first international conference of nongovernmental organizations on indigenous issues was held in Geneva in 1977 and the ultimate status of a nongovernmental organization (NGO) was achieved. This was followed by other nongovernmental conferences on indigenous peoples and the land. These meetings culminated in the establishment in 1980 of the UN Working Group on Indigenous Populations, which has worked continuously to develop international standards. In 1989 the ILO revised its earlier convention, adopting Convention No. 169, which promoted indigenous rights to cultural integrity, land and resources, and nondiscrimination, although it was criticized by indigenous advocates as not sufficiently constraining national governments.

More recently, the Working Group on Indigenous Populations developed a draft Declaration of the Rights of Indigenous Peoples. The UN declaration states that indigenous peoples have the right of self-determination, including the right not to be assimilated, and rights to cultural, economic, and social development. Following more than a decade of effort by the Working Group, the UN General Assembly adopted the Declaration on September 13, 2007, by a vote of 143 member states in favor, 4 opposed, with 11 abstentions. The four countries opposed were Australia, Canada, New Zealand, and the United States.

See also *Assimilation and Acculturation; Cultural Property; Indian Rights Movements; International Law; Sovereignty.*

Fred Lindsey

BIBLIOGRAPHY

- Anaya, S. James. *Indigenous Peoples in International Law*. Oxford, England: Oxford University Press, 1996.
- Archer, Heather S. "Effect of United Nations Draft Declaration on Indigenous Rights on Current Policies of Member States." *Journal of International Legal Studies* 5 (Summer 1999): 205–241.
- Burger, Julian. "The United Nations Draft Declaration on the Rights of Indigenous Peoples." *St. Thomas Law Review* 9 (Fall 1996): 209–229.
- Errico, Stephania. "The UN Declaration on the Rights of Indigenous Peoples is Adopted: An Overview." *Human Rights Law Review* 7 (2007): 756–759.
- Stamatopoulou, Elsa. "Indigenous Peoples and the United Nations: Human Rights as a Developing Dynamic." *Human Rights Quarterly* 16 (February 1994): 58–81.

United States v. Cook (1873)

The U.S. Supreme Court case *United States v. Cook*, 86 U.S. 591 (1873), dealt with the sale of timber by the Oneida Indians from their territory in Wisconsin lands to George Cook, a non-Indian. The land on which the timber grew was owned originally by the Menominees, who were forced to cede it to the United States. The U.S. government then removed the Oneidas from their homelands in the east to a new territory in Wisconsin. The legal questions concerned whether the Oneidas legally owned the timber on their lands and whether the United States could replevy (seize) the timber from Cook.

The Court, in an opinion by Chief Justice Morrison Waite, held that the timber belonged to the United States because it held the fee title to the land on which the trees grew. The important issue was the reason for the removal of the timber: The Court held that the timber was removed for sale, not for the purpose of clearing the land for agriculture. The Oneidas, Waite wrote, only had the right of occupancy to their territory. This gave them the right to clear and improve the land but not to sell the timber. The *Cook* decision reveals the limited land rights that the U.S. government, courts, and most whites considered Native Americans to have in the nineteenth century.

See also *Aboriginal Indian Title; Forestry.*

Scott Allen Merriman

BIBLIOGRAPHY

- Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005.
- United States v. Cook*, 86 U.S. 591 (1873).

United States v. Dion (1986)

See *Eagle Protection Act* (1940); *Treaty Abrogation*.

United States v. Kagama (1886)

United States v. Kagama, 118 U.S. 375 (1886), decided by a unanimous U.S. Supreme Court on May 10, 1886, upheld the Major Crimes Act of 1885, extending federal criminal jurisdiction to seven intra-Indian crimes committed in “Indian Country.” The case’s expansive language, however, gives it a much broader scope. *Kagama* is regarded as one of the primary sources of the plenary power doctrine, holding that the United States has nearly unlimited (plenary) powers over the Indian tribes that can be exercised at the will of Congress. This has the effect of broadly undermining—if not negating—the sovereignty of the Indian nations, such sovereignty being derived from the “domestic dependent nations” language of Chief Justice John Marshall in *Cherokee Nation v. Georgia* (1831).

Kagama, a Klamath also known as Pactah Billy, had killed Iyouse, a fellow Klamath, in a land dispute on the Hoopa reservation in northern California. Under *Ex Parte Crow Dog* (1883), criminal jurisdiction would have been with the tribe, but the Major Crimes Act of 1885, declaring that murder and six other offenses were federal crimes, removed the tribe’s right to handle the case. Kagama was indicted in federal court. He challenged the federal court’s jurisdiction, and the jurisdictional issue was referred to the Supreme Court. Kagama argued that the act violated the sovereignty of the Klamath tribe, an Indian nation with its own powers of government, including its own criminal laws.

Deciding the case in only seven months, the Court held that because an act of Congress of March 3, 1871, had ended the making of treaties between the United States and the Indian nations, Congress had determined a “new departure, to govern the tribes by Acts of Congress.” According to the Court, because Congress had the right to unilaterally abrogate treaties, it could also exercise its powers over the Indian nations in any other way it chose. Characterizing the Indians as “wards” of the nation and describing their status as “dependant largely for their daily food,” the Court held that “from their very weakness and helplessness . . . there arises the duty of protection, and with it the power” to pass laws for their protection. Therefore, Congress could pass the Major Crimes Act to protect Indians from crime and violence, but there were no obvious limitations of this new

“plenary power” doctrine and its logic, which could have been extended to any issue involving the Indian tribes.

Kagama has since been criticized in Indian Country as an unjustified attack on the tribal sovereignty that was foundational to the nation-to-nation relationship set out in *Worcester*. *Kagama* forever changed the structure of Indian law in the United States by juxtaposing a “plenary power” paradigm in which congressional action is supreme against a “sovereignty” paradigm based on *Worcester*, which holds that the tribes hold a limited sovereignty but nevertheless a political status that leaves them with substantial powers of self-government. This legal tension persists and still structures federal-tribal relations and U.S. Indian law. The scholar Daniel Rotenberg has argued that *Kagama* represented the legal death of the Indian tribes because the decision so undermined tribal sovereignty. Similarly, the negative language used by the Court to describe Indians is strongly criticized in Indian Country.

After more than a hundred years of Indian law, the legal status of the plenary power doctrine is ambiguous. The Supreme Court frequently has made use of the doctrine, but it also regularly defers to the Indian nations on matters of tribal sovereignty. Today, Congress’s power over the Indian nations is not unlimited because the holding in *Kagama* has been narrowed by succeeding cases.

See also *Ex Parte Crow Dog* (1883); *Major Crimes Act* (1885); *Plenary Power Doctrine; Sovereignty; U.S. Supreme Court and Indian Policy, 1871–1934*.

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BIBLIOGRAPHY

Harring, Sidney L. *Crow Dog’s Case: American Indian Sovereignty, Tribal Law, and United States Law in the Nineteenth Century*. New York: Cambridge University Press, 1994.

Newton, Nell Jessup. “Federal Power over Indians: Its Sources, Scope, and Limitations.” *University of Pennsylvania Law Review* 132 (January 1984): 195–288.

Shoshone Tribe of Indians v. United States, 299 U.S. 476 (1937).

United States v. Cook, 86 U.S. 591 (1873).

United States v. Shoshone Tribe of Indians, 304 U.S. 111 (1938).

United States v. Lara (2004)

Billy Jo Lara assaulted an officer on the Spirit Lake reservation. The officer was employed simultaneously by the federal and tribal governments, and both filed criminal charges. In *United States v. Lara*, 541 U.S. 193 (2004), Lara argued that the federal charges, filed after the tribal charges, were barred by double jeopardy. Double jeopardy prohibits a government

from twice prosecuting the same person for the same crime. The Fifth Amendment's double jeopardy provision, however, does not bar two separate governments from prosecuting a person. In *United States v. Wheeler* (1978), the U.S. Supreme Court ruled that a tribe and the federal government are two separate sovereigns for the purposes of double jeopardy.

The Court also ruled in *Duro v. Reina* (1990) that tribes may not criminally prosecute nonmember Indians—that is, individuals who are Indian but are not members of the prosecuting tribe. Lara, a member of the Turtle Mountain tribe, was prosecuted by the Spirit Lake government. The *Duro* decision would have barred the prosecution, except Congress enacted the “*Duro* fix” amendment, a statute declaring that Congress recognized and affirmed the inherent power of tribes to prosecute all Indians.

The issue in *Lara* was whether Congress had authority to overturn the Court's *Duro* decision. If it did not, the amendment was merely a grant of federal authority to tribes to prosecute nonmember Indians; in that case, both prosecutions of Lara would have been federal prosecutions, and double jeopardy would bar the second one. The Court possesses final authority to interpret the Constitution; Congress cannot change such a decision by statute. Congress, however, can correct a Court decision interpreting a statute or common law. In *Lara*, the Court ruled that Congress has authority to change, via statute, the Court's decisions interpreting federal Indian law. Because the statute recognizing inherent tribal authority was constitutional, the Spirit Lake prosecution was under tribal authority, and double jeopardy did not prevent Lara's federal prosecution.

See also *Constitution, U.S.; Crime, Regulating in Indian Country; Law Enforcement in Indian Country; Sovereignty; U.S. Supreme Court and Indian Policy, 1978–* .

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BIBLIOGRAPHY

- Berger, Bethany. “*United States v. Lara* as a Story of Native Agency.” *Tulsa Law Review* 40 (2004) 5–24.
- Duro v. Reina*, 495 U.S. 676 (1990).
- Duro Fix Amendment, Pub. L. No. 101-511, § 8077(d), 104 Stat. 1893 (codified as amended at 25 U.S.C. §§ 1301-1303 [1988]).
- Skibine, Alex Tallchief. “*United States v. Lara*, Indian Tribes, and the Dialectic of Incorporation.” *Tulsa Law Review* 40 (2004) 47–70.

United States v. Shoshone Tribe of Indians (1938)

The Wind River reservation in Wyoming is home to the Shoshone and Arapaho tribes. The reservation was originally set aside in 1868 for “the absolute and undisturbed use and occupation” of the Shoshone people in the Treaty of Fort Bridger (1868). The treaty provided that no cession of reservation land would be valid unless signed by a majority of the adult males of the tribe. In 1878, without the consent of the Shoshones, the federal government settled a band of Northern Arapahoes on half of the Wind River reservation. The U.S. Court of Claims held that the federal government had taken Shoshone land without payment of just compensation in violation of the Fifth Amendment to the U.S. Constitution, and the Supreme Court agreed in *Shoshone Tribe of Indians v. United States* (1937). The Supreme Court then sent the case back to the Court of Claims for a proper determination of just compensation.

The Court of Claims held that the value of one half of the reservation as of the date it was taken in 1878 was \$1,581,899.50, or \$1.35 an acre. The U.S. government appealed the decision to the Supreme Court on the ground that the award was too much. The award included the value of the timber and minerals on the taken land, and the federal government argued that because the timber and minerals belonged to the United States—not the Shoshones—the tribe should not be compensated for that value.

In *United States v. Shoshone Tribe of Indians*, 304 U.S. 111 (1938), the Supreme Court ruled against the government. It held that the tribe was the beneficial owner of the land, that minerals and timber are “constituent elements of the land itself,” and that the tribe therefore was the beneficial owner of these resources. The United States knew when it created the Wind River reservation that it contained valuable mineral deposits and stands of timber. The federal government, the Court said, could have retained for itself the ownership of the resources, but nothing in the treaty indicated that it did.

The *Shoshone Tribe* case represents the modern understanding of tribal rights in land. Decided during the Indian New Deal era of federal policy, when the federal approach was to revitalize tribal governments, it determined that tribal governments are the beneficial owners not only of the soil of their reservations, but also of the natural resources. If the federal government chose to retain those resources for itself, it must make its intent clear and definite.

The Court did not overrule *United States v. Cook* (1873), which had held that because the United States owned the fee in reservation lands, the Indians had no right to cut the timber and sell it. However, the Court said that *Cook* was not about “the scope of Indian title to land, minerals or standing timber” and therefore was not relevant. After *Shoshone Tribe*, however, it was clear that although the federal government held fee title to reservation lands, the tribes were the beneficial owners of both the land and the resources.

See also *Aboriginal Indian Title*; *Indian New Deal*; *Indian Reorganization Act* (1934); *Treaty Interpretation: Judicial Rules and Canons of Construction*; *United States v. Cook* (1873).

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BIBLIOGRAPHY

- Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005.
Shoshone Tribe of Indians v. United States, 299 U.S. 476 (1937).
United States v. Cook, 86 U.S. 591 (1873).
United States v. Shoshone Tribe of Indians, 304 U.S. 111 (1938).

United States v. Sioux Nation (1980)

The U.S. Supreme Court decision in *United States v. Sioux Nation*, 448 U.S. 371 (1980), guaranteed Sioux ownership of the Black Hills and ended a long-running legal dispute over unjust taking of Indian land tracing back to the Fort Laramie Treaty of 1868, which reserved the Black Hills for the Sioux Nation. That treaty also provided that if the United States wanted to acquire more territory it first had to obtain the signatures of 75 percent of the adult Sioux men. Gold was discovered in the Black Hills a few years later, prompting the U.S. government to begin negotiations to purchase the land. Those negotiations, along with a series of other efforts, ultimately proved unsuccessful, and in 1877 Congress passed a statute abrogating the 1868 treaty and stripping the Sioux of the Black Hills.

In 1923 the Sioux Nation filed its first lawsuit challenging the 1877 statute. Several procedural obstacles interrupted the litigation, which eventually made its way through the Indian Claims Commission and the U.S. Court of Claims before reaching the Supreme Court. In the litigation, the Sioux argued that the government violated both the 1868 treaty and the takings clause of the Fifth Amendment of the U.S. Constitution, which requires that the government pay just compensation when it takes private property for public purposes.

The opinion is notable both for its reasoning and its outcome. In deciding the case, the Court confronted two conflicting congressional powers. In *Lone Wolf v. Hitchcock* (1903), the Court declared that Congress possesses almost unrestricted control over the disposition of Indian lands, even if Congress's actions violated a treaty. Congress was allowed to sell land without the Indians' permission because the sale was simply a change in the nature of the investment (from real estate to cash) and, as trustee, Congress could manage trust assets as it saw fit.

The Court of Claims, however, relied on a different line of cases in ruling that the government had wrongfully taken the Black Hills. Those cases held that Congress cannot take tribal lands without just compensation. The problem is that Congress has two potentially conflicting roles. One role is to serve as trustee for Indian property, and as trustee, Congress has plenary power to manage Indian property as it sees fit. The other role allows Congress to exercise the power of eminent domain and take Indian property for public purposes.

According to the Supreme Court, the key element is whether Congress made a good faith effort to pay just compensation for the land. The Court reviewed the record and decided that Congress had not made a good faith effort to pay the Sioux Nation just compensation for the appropriation of the Black Hills, so it upheld the Court of Claims's decision awarding damages.

In its opinion, the Supreme Court repeated the Court of Claims's declaration that “a more ripe and rank case of dishonorable dealings will never, in all probability, be found in our history” and upheld the award of \$17.5 million. The award itself was small—it included only simple, not compound, interest—and it did not account for the estimated \$1 billion in gold removed from the Black Hills. The Court included only the value of the gold wrongfully removed by white trespassers prior to the 1877 statute. With interest, the award totaled \$106 million. For the Sioux, however, no amount of money could compensate for the loss of the Black Hills, and they refused the money, which still rests in the U.S. Treasury accumulating interest.

See also *Black Hills*; *Fort Laramie (1868)*; *Treaty of Indian Claims Commission Act* (1946); *Lone Wolf v. Hitchcock* (1903).

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BIBLIOGRAPHY

- Lazarus, Edward. *Black Hills/White Justice: The Sioux Nation versus the United States, 1775 to the Present*. Lincoln: University of Nebraska Press, 1999.

Singer, Joseph William. "Lone Wolf, or How to Take Property by Calling It a 'Mere Change in the Form of Investment.'" *Tulsa Law Review* 38 (2002) 37–48.

United States v. Washington (1974)

United States v. Washington, 384 F. Supp. 312 (1974), is the most important Indian treaty fishing rights case—and the litigation is still ongoing. Federal District Judge George H. Boldt's 1974 decision (called the "Boldt decision") recognized that western Washington treaty tribes have a right to take fish "in common with" non-Indians from off-reservation waters. The U.S. Supreme Court later upheld Judge Boldt's major ruling that Indian tribes have a right to take as much as 50 percent of the harvestable fish in waters off the reservation. The Boldt decision also granted comparable responsibility to both the tribes and the state of Washington for conserving the resource and regulating the anadromous fisheries harvest.

In the 1960s, Indian treaty fishers from the Pacific Northwest region, when exercising their fishing rights both on and off the reservation, faced increasing hostility from non-Indian sport and commercial fishers. Disputes over treaty fishing had broken out in armed conflict, with casualties on all sides. The United States sued in federal court to enjoin the state from interfering with the treaty fishing rights of the western Washington tribes after the state of Washington became more aggressive in investigating and prosecuting treaty fishers acting in violation of the treaties.

The state argued that the treaty rights had been extinguished and that the Indian tribes' political existence had been vanquished by history. Even if the treaty right was still extant, the state argued, the treaty language did not operate to grant off-reservation fishing rights. The United States and the tribes responded with expert testimony that the tribes did still exist as viable political entities and, more important, that the tribal treaty negotiators understood the operative treaty language—the treaty right would remain in the "usual and accustomed places . . . in common with all citizens"—to mean that the Indians could fish in off-reservation waters in common with non-Indians. Judge Boldt's 1974 orders—"Phase I" of *United States v. Washington*—held that the treaty tribes remained viable political entities, in effect granting (or reaffirming) federal recognition to numerous Indian tribes in the region. Judge Boldt agreed that the treaty fishing right extended off the reservation. He held that the "in common" treaty language meant that the tribal fishers and the non-

Indian fishers must share the harvest, granting 50 percent of the harvest to the treaty fishers and 50 percent to the rest.

The Supreme Court affirmed the harvest-sharing holding, by far the most controversial portion of the decision, in *Washington v. Washington State Commercial Passenger Fishing Vessel Ass'n*. Given the degree to which the state officers and state courts had ignored federal court orders, the Court's decision made Judge Boldt—and later federal court judges assigned the case—the "Fishmaster" of the treaty fishing right because of what the Supreme Court called the state's "extraordinary machinations in resisting the [Boldt decision]" (*Fishing Vessel*, 696, n. 36).

United States v. Washington subproceedings, filed under the continuing jurisdiction of the federal district court, included disputes between tribes over the extent and territories of the treaty fishing right that continue today. Other subproceedings included the "shellfish case" and the "culverts case." In the shellfish case, the federal courts held that the treaty right included the right to harvest the lucrative shellfish, a critical ruling given that the anadromous fish harvest has been devastated since the late 1970s because of overfishing, pollution, and the destruction of the piscary habitat from the construction of hydropower dams. In the "culverts case," the court held that the state must refrain from constructing or maintaining culverts under state-owned roads in a way that interferes with fish passage. Thousands of culverts are at issue.

The culverts case arises, in part, out of "Phase II" of the *United States v. Washington* litigation, wherein the federal courts held that the treaty right included an undefined right to have the fisheries protected from manmade spoliation. Judge William Orrick wrote that, absent such an implied right, "the right to take fish would be reduced to the right to dip one's nets into the water . . . and bring it out empty" (*Phase II*, 203). Although the Ninth Circuit Court of Appeals reversed much of Judge Orrick's ruling, the spirit of the decision remains the critical force underlying the continuing litigation.

Over time, *United States v. Washington* has spawned increasing cooperation between the treaty tribes and the state. Under the Boldt decision, the tribes and the state share responsibility for regulating the resource.

See also *Fishing, Hunting, and Gathering Rights; Salmon; U.S. Supreme Court and Indian Policy, 1966–1977.*

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BIBLIOGRAPHY

- Blumm, Michael C., and Brett M. Swift. "The Indian Treaty Piscary Profit and Habitat Protection in the Pacific Northwest: A Property Rights Approach." *University of Colorado Law Review* 69 (Spring 1998): 407–502.
- Cohen, Fay G. *Treaties on Trial: The Continuing Controversy over Northwest Indian Fishing Rights*. Seattle: University of Washington Press, 1986.
- Rodgers, William H., Jr. *Environmental Law in Indian Country*. St. Paul, Minn.: Thomson/West, 2005.
- United States v. Washington*, 135 F.3d 618 (9th Cir. 1998) ("Shellfish case").
- United States v. Washington*, 506 F. Supp. 187 (W.D. Wash. 1980) ("Phase II").
- United States v. Washington*, 384 F. Supp. 312 (W.D. Wash. 1974) ("Boldt decision").
- United States v. Washington*, unpublished decision (W.D. Wash., Aug. 22, 2007) ("culverts case").
- Wilkinson, Charles F. *Messages from Frank's Landing: A Story of Salmon, Treaties, and the Indian Way*. Seattle: University of Washington Press, 2000.

United States v. Winans (1905)

On May 15, 1905, the U.S. Supreme Court issued its landmark decision in *United States v. Winans* (198 U.S. 371), a case concerning the treaty fishing rights of the Yakama Nation in south-central Washington state. In an eight-to-one opinion delivered by Justice Joseph McKenna, the Court ruled that fishwheel owners Audubon and Linnaeus Winans could not legally prevent Indians from crossing their land to catch salmon at treaty-reserved sites along the Columbia River.

The decision established two important principles governing Indian treaty interpretation. The first stated that treaties must be construed as the Indians understood them at the time and "as justice and reason demand." The second, known as the reserved rights doctrine, held that treaties are "not a grant of rights to the Indians, but a grant of rights from them—a reservation of those not granted." Putting these principles into action, the Court declared that neither private property nor modern technology gave the Winans brothers an exclusive claim to the fishery, and they could not restrict the Indians in their use of traditional locations.

Before closing, however, the Court added a bit of dictum that kept open the door to controversy. At the same time that it affirmed the Indians' right to fish "at all usual and accustomed places," the ruling did not "restrain the state unreasonably, if at all, in the regulation of that right." Consequently, cases involving Northwest Indian fishing rights would return to the Supreme Court six more times during the twentieth century.

See also *Fishing, Hunting, and Gathering Rights; Reserved Rights Doctrine; Salmon; U.S. Supreme Court and Indian Policy, 1871–1934.*

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BIBLIOGRAPHY

- Cohen, Fay G. *Treaties on Trial: The Continuing Controversy over Northwest Indian Fishing Rights*. Seattle: University of Washington Press, 1986.
- Dupris, Joseph C., Kathleen S. Hill, and William H. Rodgers Jr. *The Si'lailo Way: Indians, Salmon and Law on the Columbia River*. Durham, N.C.: Carolina Academic Press, 2006.

United States Indian Commission

The short-lived U.S. Indian Commission was a mid-nineteenth-century collection of Protestant ministers, philanthropists, and abolitionists that promoted the fair treatment of American Indians after the Civil War. The group condemned the injustices in carrying out treaties and lack of honest Indian agents.

After reading Lydia Maria Child's antiexpansionist pamphlets, industrialist and abolitionist Peter Cooper, of Cooper Union fame, formed the U.S. Indian Commission in New York in 1868. Members mostly came out of the abolitionist movement and included Henry Ward Beecher and William E. Dodge.

In October 1868 the group appealed to philanthropist organizations and the press to help them promote the fair treatment of American Indians by placing them on reservations and making them citizens of the United States. The commission sent a petition to Congress decrying the treatment of American Indians by the government and white settlers. The petition closed by suggesting the appointment of an independent commission made up of volunteers to help "civilize" the Natives and end corruption in the Office of Indian Affairs. This led to the formation of the Board of Indian Commissioners that became part of President Ulysses S. Grant's peace policy. The U.S. Indian Commission ceased to exist shortly after the creation of the Board of Indian Commissioners.

Outside of mere rhetoric, the commission did negotiate at least one treaty with the Bannocks and Shoshones at Fort Bridger in 1868. In 1869 the commission sent noted artist, abolitionist, and veteran Vincent Colyer to visit the Kiowas, Comanches, Apaches, and Navajos to determine their needs. He eventually would visit thirty-one Western nations and continue his visits as a member of the Board of Indian Commissioners.

See also *Board of Indian Commissioners; Colyer, Vincent; Cooper, Peter; Grant, Ulysses S.*

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BIBLIOGRAPHY

Mardock, Robert Winston. *The Reformers and the American Indian*. Columbia: University of Missouri Press, 1971.

United States–Dakota War of 1862

In August 1862 four young Dakota men found some chicken eggs near a settler's farm near Acton, Minnesota, about 40 miles north of their reservation. They taunted one another over who was brave enough to steal the eggs and killed five settlers in a show of bravado. This act followed years of steadily declining relationships between the Dakota peoples of Minnesota and the waves of mostly German settlers who had moved into the Minnesota River Valley. According to the 1851 Traverse des Sioux Treaty, Dakota people had agreed to reduced territories in exchange for annual annuity payments. A second agreement in 1858, however, cut those territories in half, and in 1862 promised rations failed to arrive. By that point, the Dakotas were starving, frustrated, and angry.

When tribal leaders learned of the incident at the farm house, Chief Little Crow and other elders believed that settler retaliation for the incident was inevitable. Although Little Crow denounced the action, he and others decided to strike first, and the United States–Dakota War ensued. Beginning August 18, Dakotas attacked white settlements, farms, and trading posts in the hopes that they would be able to drive settlers out of their territory. Perhaps as many as 400 settlers were killed in these first attacks. Little Crow and his men attacked an infantry unit from Fort Ridgely, killing 23 soldiers. They also attacked the fort itself, but withdrew after suffering more than 100 casualties from the fort's howitzers. Though settlers in New Ulm were prepared for an attack, it nevertheless brought heavy casualties to both sides before the Dakotas withdrew. Townspeople abandoned New Ulm the following day.

Settlers, many now panic stricken, called for assistance. The state of Minnesota sent to Fort Ridgely 1,500 militia troops under Col. Henry Hastings Sibley, but the Dakotas killed 23 of them at Birch Coulee on September 2. Then, on September 23, Sibley's force, now joined by federal troops under Gen. John Pope, defeated the Dakotas at Wood Lake.

This marked the end of significant fighting in Minnesota. Dakotas who wanted to continue the resistance escaped to the west into the Dakota Territory, where they attacked Fort Abercrombie on the Red River and a number of other settlements on the northern Plains.

In late September 1862, a five-man military commission put many of the captured Dakotas on trial. On November 7, Sibley telegraphed to Washington, D.C., a list of 306 men condemned to death. When President Abraham Lincoln (1861–1865) received the list, he put two assistants to work investigating the cases. Lincoln wanted to distinguish between Indians who had committed wanton acts of violence and those who had merely participated in battles. He eventually commuted the sentences of all but 39 of the condemned. One of these men later received a last-minute reprieve. On December 26, 1862, 38 men were hanged at Mankato, Minnesota, in the largest mass execution in American history. Many of the bodies of the dead were subsequently desecrated by doctors seeking cadavers for scientific study.

Most of the remainder of the captured Dakotas were interned at Pike Island. As many as 300 of the 1,600 held at the internment camp died from disease and malnutrition. The federal government closed the camp and then attempted to drive the survivors out of Minnesota by placing a \$25 bounty on Indians found living free in the state.

Chief Little Crow escaped capture into northeastern Dakota Territory and eventually into Canada. In July 1863, he and one of his sons returned to Minnesota and were killed by an American settler.

In summer 1863 and again in 1864, the U.S. Army sent expeditions into the Dakota Territory to try to defeat and round up the remaining resisting Dakotas. On July 28, 1864, federal and Minnesota militia forces under General Alfred Sully defeated the Santees at Killdeer Mountain. Gradually, most of the Dakotas ended their resistance and moved to reservations.

See also *Killdeer Mountain (1864), Battle of; Lincoln, Abraham; Little Crow; Sibley, Henry Hastings; Reservations; United States–Indian Wars (1848–1891); U.S. Indian Policy: Congress and the Executive, 1845–1877; Westward Migration.*

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BIBLIOGRAPHY

Anderson, Gary Clayton, and Alan R. Woolworth, eds. *Through Dakota Eyes: Narrative Accounts of the Minnesota Indian War of 1862*. St. Paul, Minn.: Minnesota Historical Society, 1988.

Carley, Kenneth. *The Dakota War of 1862*. St. Paul, Minn.: Minnesota Historical Society, 2001.

Chomsky, Carol. "The United States–Dakota War Trials: A Study in Military Injustice." *Stanford Law Review* 43, no. 1 (November 1990): 13–98.

United States–Indian Wars (1776–1848)

Beginning with the outbreak of the American Revolutionary War (1775–1783) and continuing to the end of the U.S.–Mexican War (1846–1848), Native Americans were engaged in conflicts over control of the North American continent. In the colonial wars of empire between the British and French, many tribes had to choose sides. During the Revolutionary War and the War of 1812 (1812–1814), some Indian nations again had to choose—this time between Great Britain and the United States. The British were clearly more powerful, and though most tribes of the eastern seaboard, American Southeast, Great Lakes, and trans-Appalachian region held many resentments against them for various reasons, the Native nations tended to act in what they thought were their best interests. Most of them allied with Great Britain because they understood that American settlers were a greater threat to their societies.

Native nations also fought a number of resistance wars against the United States during this period. Some tried to prevent encroachments on their lands by attacking American settlers, and some fought wars to resist their removal to new territories. Although Native groups, tribes, and confederacies won a number of significant battles against the United States, war with the emerging nation usually resulted in defeat, loss of land, and retreat into the West.

The American Revolutionary War

When the Revolutionary War broke out in 1775, the Algonquians of the coast, the inland Iroquois, and major tribes of the southeast, including the Cherokees, Creeks, Chickasaws, and Choctaws, were torn as to whether they should pick a side or remain neutral. During the seventeenth and eighteenth centuries and up to the end of the French–Indian War (1754–1763), many of the tribes involved in European imperial struggles chose the French, some allied with Great Britain, and some remained neutral. Most of the tribes drawn into these conflicts were divided into factions over which course to choose. With the British victory in the French and Indian War, the tribes reluctantly accepted

British control over Canada, the Great Lakes, and the trans-Appalachian river valleys along the Mississippi. In the 1770s the British were successful in convincing most tribes, ranging from the Abenakis in the north to the Cherokees in the south, to oppose the colonial American rebellion. The British argued that the Americans were land hungry and would displace tribes if they gained their independence. Neutrality was not an option for most tribes, particularly those in such close proximity to American settlements. As a result, American Indians were dragged into the Revolutionary War.

The Cherokees, Choctaws, and Creeks perfunctorily supported the British in the South, and the Algonquian tribes of the northeast willingly assisted the British on the frontiers. The Shawnee chief Cornstalk and other Iroquois leaders met with the southern tribes in 1776, encouraging them to attack American settlements in Tennessee, Virginia, North Carolina, South Carolina, and Georgia. The Cherokees responded with coordinated attacks on several settlements, which resulted in a vicious American counterattack, which forced many Cherokee leaders to sue for peace. Cherokee warrior Dragging Canoe, however, led a band of Cherokees (called Chickamaugas by the Americans) to Tennessee, where he led sporadic attacks on American settlers until 1794. Meanwhile, the Iroquois nations were split in their loyalties; of the Six Nations, only the Oneida and Tuscaroras supported the Americans, whereas the Seneca, Mohawk, Cayuga, and Onondaga tribes supported the British. These latter Iroquois tribes had been loyal to William Johnson, the British superintendent of Indian affairs during the colonial period, and they retained their loyalty to his successor and nephew, Colonel Guy Johnson. British ministers and members of Parliament in London wrote letters of encouragement to agents and officers alike to employ the Indians against the Americans.

One of the first conflicts involving the Iroquois occurred at Oriskany Creek near Fort Stanwix in New York in August 1777. American militia general Nicholas Herkimer led New York militia and Oneida Indians to relieve Fort Stanwix, under British attack. Iroquois warriors under Mohawk chief and Dartmouth College-educated Joseph Brant and Colonel John Butler ambushed Herkimer's forces at Oriskany Creek, inflicting heavy casualties and mortally wounding Herkimer. Subsequently, in July 1778, Butler led three hundred Seneca and Delaware warriors to the Wyoming Valley of eastern Pennsylvania, where they attacked American settlements while Brant led the Iroquois on several raids on American

frontier settlements, such as the attack on Cherry Valley in eastern New York in November 1778.

George Washington, commander of the American forces, responded to the Wyoming and Cherry Valley massacres by sending three separate American armies into the Six Nations of New York. General John Sullivan of New Hampshire led about four thousand men up the Susquehanna River in the summer and fall of 1779 to invade Iroquois lands. He rendezvoused with General James Clinton at Tioga before proceeding north into the Finger Lakes region of New York and attacking the British and Iroquois at Newtown, Kendaia, Canadasaga, Canandaigua, and Genesee. The American soldiers overwhelmed the Iroquois, defeating them in small skirmishes and destroying their fields, and drove them to Fort Niagara, where the British were hard-pressed to feed them. Sullivan's slash and burn warfare brought economic privation to the Iroquois for years to come. Around the same time, Colonel Daniel Brodhead struck Seneca and Mingo towns in western Pennsylvania along the Allegheny River.

In 1778 Virginia militia colonel George Rogers Clark confronted British troops out of Detroit and their allies from among the Shawnees, Miamis, Wabashes, Wyandots (Hurons), and Delawares. Clark freed the Ohio Valley from British control by attacking British forts at Kaskaskia and Vincennes. The British counterattacked from Detroit, which brought Clark up the Ohio River to the Shawnee town of Chillicothe, which he destroyed. In 1780 he also defeated a large force of Miamis and Shawnees at Piqua on the Miami River in Ohio. Bloodshed continued when Pennsylvania militia fell upon the Christian Delaware Indians at the peaceful Moravian town of Gnadenhütten in March 1782. The American troops killed and scalped almost one hundred men, women, and children. Several months later, British and Indian forces retaliated, attacking Kentucky militia at the Battle of Blue Licks. Shawnee, Mingo, and Mohawk Indians led by Joseph Brant among others ambushed the Kentuckians, including Daniel Boone, on August 19, 1782, routing the Kentuckians and killing seventy-two Americans.

Between the Wars with Great Britain

By the Treaty of Paris of 1783, which ended the war, the United States acquired the lands of the Old Northwest, which the British had reserved for the Indians. The British and Indians of the Great Lakes region, however, refused to evacuate their western forts on the boundary of the United States and Canada. Although the British and Americans had come to terms, the Indians had not, and refused to give in to

the American demands for land. After the creation of the Northwest Territory in 1787, the Indians living in the lands north of the Ohio River, such as in the Wabash River Valley, joined together into a confederacy to prevent the spread of settlers into their territory. Led by Miami chief Little Turtle and Shawnee chief Blue Jacket, the Indian confederacy, which included the Chippewa (Anishinabeg) and Potawatomi tribes, resisted armed incursions into their territory. In October 1790, for example, forces under Little Turtle and Blue Jacket defeated an American army under Josiah Harmer near Fort Wayne, Indiana. A year later on the Wabash River, the Indian confederacy defeated another American army led by Arthur St. Clair; most of St. Clair's army of over a thousand were killed or wounded. St. Clair's debacle led President George Washington to select Anthony Wayne to lead an army against the Indians. His new army, the Legion of the United States, defeated the combined Native forces at the Battle of Fallen Timbers (1794). After its victory, the United States forced Native leaders in the region to sign the Treaty of Greenville (1795), in which the northwest Indian tribes surrendered much of their territory south and west of Lake Erie and north of the Ohio River. The treaty halted most of the conflicts between the United States and the Indians of the Great Lakes region until the War of 1812.

The United States enjoyed a few years of relative peace with the Indian tribes on its western frontier. Part of the reason for peace was the work of Thomas Jefferson, president from 1801 to 1809. Jefferson arranged for the United States to purchase the Louisiana Territory from France in 1803, which opened up a wide range of new relations and potential sources of conflict between Americans and Native Americans. The boundaries of the Louisiana Territory were unclear. Jefferson argued for a liberal interpretation of the territory's borders; he maintained that they stretched as far south as the Red River and west across to the Rocky Mountains and beyond to the Pacific Ocean. The Spanish, in control of what is now the American Southwest, rejected this interpretation. Jefferson then moved to force the issue and to legitimize the U.S. claims by sending military-scientific expeditions into Louisiana. He also wanted these explorers to collect information about the region's natural resources and make contact with the Native tribes to establish trade and diplomatic relations. The most important of these missions were the Lewis and Clark Expedition (1804 to 1806), which Jefferson actually planned before the Louisiana Purchase was concluded; the two expeditions of Zebulon Pike, the first up the Mississippi River in 1805–06

followed by a journey west to the source of the Arkansas River in 1806–07; and the journeys of Stephen Long along the Platte and Canadian rivers from 1819 to 1821 and up the Minnesota River in 1823. American settlement into these territories in succeeding years would provoke dozens of wars with tribes throughout the West.

Conflict, meanwhile, returned to the Old Northwest when the United States engaged the forces of a pan-Indian revolt led by Tecumseh and his brother, Tenskwatawa, the Shawnee prophet. Tecumseh had long been an enemy of the United States, having fought with the British during the Revolutionary War, with Little Turtle in 1790 against American troops under General Harmar, in 1791 against General St. Clair's U.S. forces, and in 1794 against General Anthony Wayne's Legion at the Battle of Fallen Timbers.

In 1805 Tenskwatawa emerged as an influential prophet among the Natives in the upper Ohio Valley and began preaching that Native people needed to reject the cultural influences (such as whiskey) of the Americans; return to their old ways; and drive the United States out of their territory. Subsequently, Tecumseh traveled around the Old Northwest and the South spreading Tenskwatawa's message of resistance against American expansion. Tecumseh formed a confederation of tribes from the Northwest that included the Shawnees, the Delawares, the Wyandots, the Ottawas, the Kickapoos, and the Chippewas, and he hoped to expand the confederacy into a powerful pan-Indian revolt against the United States.

In November 1811, while Tecumseh was away to the South spreading the word of the movement to the Creeks and Cherokees, Indiana territorial governor William Henry Harrison marched an army against Prophetstown, Tenskwatawa's headquarters on the Tippecanoe River. Harrison's army defeated Tenskwatawa's force and destroyed Prophetstown. Returning a few days later, Tecumseh determined to continue the resistance against the United States. He sought assistance from the British in Canada. When the War of 1812 broke out, Tecumseh joined forces with British troops in an attack on Detroit, which quickly fell to the attackers. Defeat followed these initial victories, however, as General Harrison marched a strong American army toward Detroit, which forced the British commander, Colonel Henry Proctor, to retreat into Canada. Harrison pursued and defeated the British and Indians at the Battle of the Thames, where Tecumseh was killed.

Indian tribes of the Southeast also fought in the War of 1812. A faction of Creeks known as the Red Sticks wanted

to drive Americans from their lands. William Weatherford (also known as Red Eagle), a Red Stick Creek chief, destroyed an American militia at Fort Mims on the Alabama River in August 1813, which led to a counterattack by Tennessee militia led by Andrew Jackson. The Americans engaged the Red Sticks in a series of battles before finally destroying the resistance movement at Horseshoe Bend on the Tallapoosa River (in what is now eastern Alabama). Many of the Red Sticks fled to Spanish Florida, where they joined forces with runaway slaves and other Natives who came to be known as the Seminole Indians. In the brief First Seminole War (1817–1818), Jackson led American troops into Spanish Florida, defeated the Seminoles, and provoked a brief diplomatic crisis when he captured two British subjects, accused them of providing the Indians with weapons, and hanged them. Sporadic conflicts with the Seminoles during subsequent years led to the Treaty of Moultrie Creek (1823), in which Seminoles were settled on a reservation in central Florida.

Removal

During the 1820s the United States began promoting a policy of removal, which called for the tribes in the existing states to be removed west of the Mississippi River. In 1830 Congress passed the Indian Removal Act, which gave President Andrew Jackson the authority to negotiate removal treaties with the eastern tribes. While most of the major tribes in the East removed peacefully, the Seminoles were forced to relocate only after the long, bitter, and expensive Second Seminole War against the U.S. Army. In the Treaty of Payne's Landing (1832) the Seminoles agreed to surrender their land in Florida for new territory west of the Mississippi River. Many Seminoles, led by Osceola, Micopany, and others, refused to acknowledge the treaty and remove. In 1835 Osceola and his followers killed Charley Emaltha, a Seminole proponent of removal, and Wiley Thompson, a federal agent to the Seminoles. Then, the Seminole resistance group, led by Alligator, Jumper, and Micopany, attacked the U.S. Army under Major Francis Dade. For the next seven years the United States poured resources into the Seminole war, but the Indians skillfully used guerilla methods to frustrate the federal army. Most of the Seminoles submitted in 1842 and were removed to Indian Territory; others, however, escaped into southern Florida's interior and reemerged later as the foundation of the modern Seminole and Miccosukee nations. The United States spent approximately \$40 million on the war and suf-

fered the loss of 1,500 men. The Creeks in Alabama also resisted removal in the Second Creek War (1836–1837). After a series of Creek attacks on American settlers and their property, Jackson sent in troops to force the Creeks to remove to Indian Territory.

The Sauk and Fox of Iowa, the Potawatomis of Indiana, and the Shawnees of Ohio signed away their lands and agreed to relocate west of the Mississippi River. After Sauk chief Keokuk signed a removal treaty with Indian Commissioner William Clark in 1830, Keokuk's rival, Black Hawk, refused to acknowledge the treaty. Black Hawk led a group of Sauk, Fox, and Kickapoo Indians in protest against the cession of their land, and returned to their ancestral town of Saukenuk in 1831. Black Hawk's action precipitated a conflict with the United States, the Black Hawk War, which produced sporadic conflict during 1832. The Black Hawk War was one of many actions of the 1830s and 1840s during which the United States removed almost all of the major tribes of the East, perhaps more than 100,000 Indians, to new territories west of the Mississippi.

Meanwhile Texas independence from Mexico in 1836 put pressure on the resident Lipan Apache, Comanche, Caddo, and Kiowa tribes of Texas as well as newcomers to Texas, such as the Cherokees and Shawnees. Texas leaders such as Mirabeau Lamar pursued a policy of expanding white dominance in Texas at the expense of the Indians, which resulted in massacres of groups of Comanches and Kiowas. Other tribes moved north and west, only to be caught in the midst of the war between the United States and Mexico from 1846 to 1848. The U.S.–Mexican War impacted a number of peoples in the Southwest. As American settlers moved into the West, a whole new series of conflicts developed as a number of tribes resisted encroachments on their territory and resisted federal efforts to place them on reservations.

See also *American Revolutionary War (1775–1783)*; Boone, Daniel; Brant, Joseph; *Cherokee War of 1776*; Clark, George Rogers; *Creek Civil War (1813–1814)*; *First Seminole War (1817–1818)*; *French and Indian War (1754–1763)*; *Great Britain, Indian Policy of*; Harmar, Josiah; Harrison, William Henry; *Indian Removal Act (1830)*; Jackson, Andrew; Jefferson, Thomas; Johnson, William; *Lewis and Clark Expedition*; Little Turtle; Long, Stephen Harriman; *Military Policy of the United States, 1776–1860*; Osceola; *Paris (1783), Treaty of*; Pike, Zebulon; *Removal*; *Second Creek War (1836–1837)*; *Second Seminole War (1835–1842)*; *Tecumseh*; *Tenskwatawa*; *War of 1812 (1812–1814)*; Washington, George; Wayne, Anthony; *Weatherford, William*.

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BIBLIOGRAPHY

- Downes, Randolph C. *Council Fires on the Upper Ohio: A Narrative of Indian Affairs in the Upper Ohio Valley until 1795*. Pittsburgh: University of Pittsburgh Press, 1940.
- Graymont, Barbara. *The Iroquois in the American Revolution*. Syracuse, N.Y.: Syracuse University Press, 1972.
- Jung, Patrick J. *The Black Hawk War of 1832*. Norman: University of Oklahoma Press, 2008.
- Kohn, Richard H. *Eagle and Sword: The Federalists and the Creation of the Military Establishment in America, 1783–1802*. New York: Free Press, 1975.
- Mahon, John K. *History of the Second Seminole War, 1835–1842*. Gainesville: University of Florida Press, 1967.
- O'Donnell, James H. III. *Southern Indians in the American Revolution*. Knoxville: University of Tennessee Press, 1973.
- Owsley, Frank L., Jr. *Struggle for the Gulf Borderlands: The Creek War and the Battle of New Orleans, 1812–1815*. Gainesville: University Press of Florida, 1981.
- Prucha, Francis Paul. *The Sword of the Republic: The United States Army on the Frontier, 1783–1846*. New York: Macmillan Company, 1969.
- Remini, Robert V. *Andrew Jackson and His Indian Wars*. New York: Penguin Press, 2002.
- Utley, Robert M., and Wilcomb E. Washburn. *Indian Wars*. Boston: Houghton Mifflin Co., 1977.

United States–Indian Wars (1848–1891)

By 1848 the market for beaver hides had slowed, and the brief era of the “mountain man” in the American West was ending. Mormons and many other Americans had crossed the Great Plains, gold had been found at Sutter's Mill, and the United States had defeated Mexico and was in the process of annexing lands from Texas through California. While wars between the continent's indigenous inhabitants and its European newcomers were not entirely over east of the Mississippi, the most intense wars of the coming years would take place in the West.

The names of the leaders during this era—Kit Carson, Cochise, George A. Custer, Crazy Horse, George Crook, Geronimo, Chief Joseph, Dull Knife, Quanah Parker, William T. Sherman, Sitting Bull—are familiar. But the battles and the combatants have been stereotyped and replayed until the mythology sometimes obscures the reality.

The reality was undoubtedly dirtier, deadlier, and more desperate than the portrayal in the dime novels of the time or the sanitized Hollywood movies a century later. These conflicts were battles to the death involving whole families. This was not modern warfare; this was personal warfare fought at close range, by and against women and children, and it was often genocidal.

On one side were people who had already survived extreme cultural dislocation and disease. They were fighting to preserve what was left of their cultures, their lands, and their existence. On the other side were armies composed of new and seasoned officers and enlisted ranks that included recent Irish immigrants, former African slaves, men escaping bad situations further east, adventurers, and men who identified primarily as soldiers. They received critical support from Native Americans—particularly members of the Pawnee, Crow, and Shoshone nations—who served as scouts and sometimes as soldiers. Without assistance from Chiricahua scouts, the U.S. military would undoubtedly have found it even more difficult to bring Geronimo to submission.

Causes of Conflict

In the 1840s western Native nations became increasingly alarmed about the number of people migrating into and across their territories. During the same period, Americans began to view seizing and settling those lands as their Manifest Destiny. Immigration through the West was also prompted by the discovery of gold in California in 1848; the ensuing gold rush tripled the state's population to 308,000 in thirteen years. Many settlers and miners traveled by boat, but 42,000 traveled across the Great Plains in 1849 alone.

At first, the U.S. government attempted to manage the situation by beginning a new round of treaty negotiations designed to reduce both Native land bases and the growing friction between migrants and Native peoples. In 1851 at Fort Laramie in what is now southeastern Wyoming, the United States signed a treaty with seven Great Plains nations that set boundaries for the tribes, promised the Indians annuities, and recognized the United States' right to establish roads and military posts on Native lands. In 1855 several treaties were concluded with the Northwestern nations living east of the Cascades (three at Walla Walla, Washington, and one at The Dalles, Oregon) that set boundaries, promised annuities, created four reservations in the Oregon and Washington territories, and affirmed Native fishing rights at the "usual and accustomed stations." Over the next ten years, telegraph wires and stagecoach routes spanned the continent, and many of those who would become Native leaders in the wars to resist American encroachment came of age in a world that was rapidly changing.

U.S. policy had two aspects: assimilating Native people into the mainstream culture and, where Indians would not buy into this idea, removing them by force. The assimilation

policy focused on creating reservations, where Native Americans were expected to take up farming, go to school and church, renounce traditional governments, and eventually blend in with the "melting pot" of U.S. society. The military focused on keeping noncompliant Indians on the move and destroying their resources such as food and housing. Some members of the U.S. military saw Natives as subhuman and their own activities as part of God's plan for westward expansion; they repeated the statement "nits breed lice" to justify killing women and children. Historians estimate that between 1866 and 1891, there were more than one thousand skirmishes, battles, and massacres involving the United States and western Native nations.

As the nineteenth century progressed, the expense of military operations mounted, and fraud by government-appointed Indian agents became public knowledge. As a result, President Ulysses S. Grant promulgated his "Peace Policy," which laid out what became the preferred method of removing Native peoples from the majority of their land bases. Both the assimilation policy and the military policy were facilitated by the treaty process, the killing of key species such as the buffalo, and the building of railroads to allow rapid migration and military response.

Wars in the Pacific Northwest and Northern Plains, 1848–1860

Military incidents between 1848 and 1860 were generally small-scale and began as Americans arrived in the Northwest following the British withdrawal from the region after the United States–Canada border was set in 1846. The first open battles involved the Cayuses, and skirmishes occurred sporadically from 1848–1855. Throughout the first half of the 1850s, a series of battles and skirmishes involving the Native people of the Rogue River Valley destabilized southwestern Oregon. The conflict was encouraged by an influx of miners, who attacked peaceful Native villages and massacred their inhabitants. Many Natives in California were killed in similar situations.

In 1855 some Yakamas, in what is now eastern Oregon and eastern Washington, agreed to a treaty that required them to settle on a reservation. However, gold was discovered in the Colville district to the northeast of the Yakama reservation, which brought a flood of miners through Yakama territory and led to violence. Other Yakamas, led by Kamiakin, continued to resist removal to the reservation. The latter phase of this conflict, known as the Coeur d'Alene War, began in 1857 and involved the Coeur d'Alenes,

Spokanes, Klickitats, Palouses, and many members of smaller tribes. After a victory over Col. Edward Steptoe in early 1858 at the Battle of Tohotonimne (also called the Battle of Steptoe), the Native combatants were decisively defeated at the Battle of Four Lakes (September 1, 1858), near present-day Spokane. A number of the Native leaders were hanged, and most of the rest were moved onto reservations.

Further east, in 1854 a brash second lieutenant named John Grattan opened fire on a Lakota (Western Sioux) camp in a dispute over a cow—and got himself and thirty troops killed. The United States retaliated and killed eighty-six Lakotas. This was the beginning of nearly twenty-five years of warfare on the northern Plains. By the time peace returned, the political and cultural landscape would be very different.

By 1860 the Northern Paiutes had been reduced to near starvation conditions because of disruptions to their fragile ecosystem brought by miners and settlers, followed by a particularly harsh winter. They were involved in two battles in the vicinity of Pyramid Lake; they won the first, but the second was inconclusive. This warfare disrupted the Pony Express and played a role in the demise of that cross-continental delivery service. The Paiutes fought the United States again in 1868 (during the Snake War) and in 1878 (the Bannock War) before being settled on reservations permanently.

War in the Southwest

The early 1860s were a pivotal time for U.S.–Indian military confrontations. With the outbreak of the Civil War, U.S. troops were pulled back from positions in the West. This brought some relief from the constant skirmishes that had marked the previous decade and allowed some Native nations to temporarily reclaim lands that had been occupied by Americans settlers.

There were, however, some major exceptions to the calm. In the Southwest, Cochise, leader of the Chiricahua Apaches, began to fight the United States in 1861. Cochise had maintained peace and safe passage for the Butterfield Overland Mail's route across Arizona territory for four years. But after several of his family members were killed by American soldiers, he led a guerrilla war to regain control of the area.

The best-known battle took place at Apache Pass in 1862, where Cochise and his father-in-law, Mangas Coloradas, assembled the largest fighting force their nation ever put in the field—about seven hundred men—and attacked U.S. forces who were attempting to reach water at the Apache Pass stage station. The battle ended inconclusively. The following

year, Mangas was killed under a flag of truce by California volunteers, bringing additional bands of Apaches into the fray. Fighting in this chapter of the Apache wars continued in earnest until 1872, with smaller skirmishes until 1875.

During the same period, the Navajos (Dinés) were subdued. The Navajos took the removal of U.S. troops during the Civil War as an opportunity to strike at Mexican and American settlers. In the summer of 1863, Col. Kit Carson was sent to drive the Navajos from their country and east to Bosque Redondo, a fort along the Pecos River. Carson and his troops waged a scorched earth campaign, and the Navajos put up little resistance. By January 1864, when Carson entered Canyon de Chelly, the last of the Navajos surrendered. The army drove the survivors along the “Long Walk” to the internment camp at Bosque Redondo. Eight thousand reached the fort, but many died along the way. In 1868, after the survivors had endured terrible conditions, the United States agreed to let them move to their current reservation in their homeland in northeastern Arizona.

War on the Plains

Meanwhile in southwest Minnesota, a different scenario was playing out. There a band of Santee Dakotas (Eastern Sioux) who had been reduced to starvation on the reservation clashed with the area's settlers in the short-lived United States–Dakota War of 1862. Col. Henry Sibley's troops captured two thousand Dakotas, who had been led by Little Crow, after a battle near Wood Lake. Thirty-eight were hanged at Mankato in the largest mass execution in U.S. history, and others were imprisoned. Little Crow remained free and was killed the following year while picking berries. Many of his people moved west into Dakota Territory, and some joined their relatives who remained free on the northern Great Plains.

On the southern Plains, the Comanches and Kiowas had fought a running war against the United States for years, mostly against troops based in Texas. During the Civil War, the withdrawing U.S. troops were replaced by Confederate soldiers. After treaties were completed between the Confederacy and the Comanches, the Confederate soldiers also moved back east to the main theaters in the Civil War. The treaties were never implemented, and the Comanches began strikes against settlements that managed to move the Texas frontier back by 100 miles.

The Comanches, Kiowas, Cheyennes, Lakotas, Arapahos, and Kiowa Apaches succeeded in closing the Santa Fe Trail during most of the Civil War. The Cheyennes and Arapahos

became more active after the Sand Creek Massacre (November 29, 1864) in eastern Colorado Territory in which Col. John Chivington's Colorado militia killed around two hundred Cheyennes led by Black Kettle and White Antelope. Most of the victims were women and children, and Chivington's militia mutilated their bodies.

As the Civil War ended, the southern Plains were in turmoil, partly because of struggles between Native nations and American settlers and partly due to Native groups' participation in the Civil War. Some fought for the Confederacy, including the Cherokees, Chickasaws, Seminoles, Osages, Choctaws, and Creeks. Men from many tribes in the North served as scouts and soldiers for the Union army.

The end of the war brought a renewed mass migration to the West across Indian lands. But American settlers' constant trespasses were not Indians' only concern; the westward migration also prompted an environmental disaster that decimated the Plains Indians' traditional means of subsistence. The strong market for buffalo skins helped bring about the wholesale slaughter of the animal, which was the base of the Plains Indians' economy. Between 1865 and 1883, millions of buffalo were killed, and the herds were reduced to around one thousand animals in the early 1890s. Professional hunters were encouraged by the U.S. Army, whose commanders maintained that the slaughter made it easier for the government to control the Plains nations.

Still, the Plains nations proved difficult to subdue. After the Civil War, Gen. William T. Sherman was assigned to the West. One of his first objectives was to put an end to attacks on Americans traveling the Bozeman Trail, which had been established in 1863 as a shortcut to the gold fields of Montana through the prime hunting grounds of the Powder River country in what is now Wyoming. This territory, the Dakota Reserve, had been set aside to the Lakotas (Western Sioux) by the Fort Laramie Treaty of 1851 in an effort to secure intertribal peace.

During 1866, Red Cloud and Crazy Horse led attacks along the trail. Nonmilitary travel on the route ceased after they massacred Capt. William Fetterman's command (December 21, 1866) near Fort Phil Kearny, in the worst defeat the United States had yet suffered by western Indians. The Bozeman Trail War ended with the Treaty of Fort Laramie in 1868. The forts along the Bozeman Trail were abandoned, marking the only time American Indians defeated the United States in a major war.

The 1868 treaty, however, was only a temporary reprieve. In 1874 Lt. Col. George A. Custer led a scouting party into

the Black Hills, the sacred center of lands guaranteed to the Lakotas by treaty. While this would cement the Lakotas' hatred of Custer, that emotion already ran deep among the Cheyennes, some of whom had signed the Medicine Lodge Creek Treaty of 1867, along with various Arapahos, Comanches, Plains Apaches, and Kiowas. Many in those nations never accepted the treaty, but a number of them, including Black Kettle, agreed to move to reservations in the Indian Territory. In November 1868 Black Kettle, who had survived the Sand Creek Massacre, heard that soldiers were traveling in his direction and requested but was denied protection from Fort Cobb for his camp inside the Cheyenne reservation along the Washita River. When Custer attacked the village, Black Kettle and his wife were among the approximately one hundred Cheyennes killed. To add insult to injury, Custer then ordered the slaughter of hundreds of Cheyenne horses.

Eight years after the 1868 treaty, the hated Custer and his Seventh Cavalry met their end at the Battle of Little Bighorn (June 25, 1876). Custer's command was part of a three-pronged campaign led by Gen. George Crook, Gen. Alfred Terry, and Col. John Gibbon. Arikara, Crow, and Shoshone scouts accompanied the expedition. The campaign was designed to subdue Native people who had not moved onto reservations following a U.S. order to do so.

The largest alliance of Native warriors ever assembled in the West opposed the troops—several thousand seasoned Lakotas, Cheyennes, and Arapahos led by Crazy Horse and other prominent Native leaders. General Crook, who was generally effective against Indian opponents, was defeated by these Native fighters at the Battle of Rosebud Creek, a week before the Battle of Little Bighorn.

On June 25, the Indians' camp along the Little Bighorn River stretched for miles. Sitting Bull, Two Moon, Hump, Pizi (Gall), American Horse, Crow King, He Dog, and a young Black Elk were there. Custer's Native scouts warned him that he was facing a large and powerful gathering. Still, Custer split his command into three groups and moved forward. Three companies of troops under the command of Maj. Marcus Reno attacked the southern end of the Indian camp, but were beaten back. Capt. Frederick Benteen was sent off to the south and away from the battle, but later joined Reno. The two men and their troops dug in on the bluffs, where they resisted a two-day siege, losing about one-third of their troops.

The five companies under Custer's command attacked the north end of the camp, and all 263 men were killed.

General Terry arrived in time to rescue Reno and Benteen and to help bury the dead of Custer's command.

The overwhelming military victory for the Lakotas, Cheyennes, and Arapahos intensified calls for the U.S. government to end the Indian threat. General Terry pursued the Indians through the following winter. By May 1877 Sitting Bull and his followers had fled to Canada and Crazy Horse had turned himself in at Fort Robinson, Nebraska, where he was killed a few months later.

After the Battle of Little Bighorn, the Cheyennes were confined to a reservation in Indian Territory, where they starved and died of disease at an alarming rate. In September 1878 Morning Star (Dull Knife) and Little Wolf led a group of about three hundred Cheyennes in a break for freedom, heading north for their ancestral home across the wintry Plains. The two chiefs parted ways in Nebraska. Little Wolf's group reached Montana, where they eventually settled on the Northern Cheyenne reservation. Dull Knife's group made it 400 miles, then were captured and imprisoned at Fort Robinson. In a desperate bid, the Cheyennes escaped in January 1879. Most, including Dull Knife, were killed in the effort.

The End of War in the West

Peace was also slow to come to the southern Great Plains. The Kiowas resumed warfare in 1868, only a year after the Medicine Lodge Creek Treaty. In Texas in 1871, they left the reservation they shared with some Comanches to go on a raid, then returned and admitted their exploits. General Sherman arrested three Kiowa leaders—Satanta (Set'tainte), Satank, and Big Tree. Satank was killed while attacking his guards on the way to his trial. Satanta and Big Tree were later released and rode off to conduct more raids. In 1874, after being arrested again, Satanta chose death over imprisonment.

In the same year, the U.S. Army attacked a camp of Kwahadi Comanches, who had never signed a treaty. The Comanches had fought a decades-long war against the U.S. Army and American settlers. In September 1874, troops led by Col. Ranald Slidell Mackenzie killed more than one thousand of their horses and destroyed their winter supplies. This led to the 1875 surrender of Quanah Parker, who for over half a decade had led the Comanches in war across Texas.

In the Pacific Northwest, the Modocs resisted relocation to a reservation. Following Kintpuash (Captain Jack), a small group holed up in the rugged lava beds of northern California in 1872–1873 and resisted a much larger contingent of the U.S. Army before being defeated. Kintpuash and

three of his men were summarily tried and hanged for the murder of Gen. Edward R. S. Canby at a meeting that was supposed to be a peace commission. The Bannocks of eastern Oregon and Idaho also resisted removal to a reservation during this period.

Chief Joseph (Hinmaton–Yalaktit) of the Nimípuus (Nez Perces) led another historic dash for freedom during June–October 1877. The Nimípuus had agreed to return to their reservation, but a number of them refused to go, against Joseph's wishes. Despite his misgivings about resisting federal demands, Joseph and several hundred others headed for Canada, marching some fourteen hundred miles across today's states of Oregon, Washington, Idaho, Wyoming, and Montana. They outfought, outmaneuvered, and outsmarted two thousand United States troops as they moved across often rugged terrain. Exhausted, cold, and hungry, they surrendered within forty miles of the Canadian border after a campaign that is considered one of the most impressive in military history. The survivors were taken to reservations on the southern Plains, and some of them were allowed to return to a reservation in the Pacific Northwest in 1885.

In the Southwest, some Apaches continued to oppose the U.S. Army. Victorio, who had led Apache attacks on settlements in the United States and Mexico, was killed by American troops in 1880. Nana (then in his seventies), Cochise's son Naiche, Goyathlay (Geronimo), and others joined in battle in 1882, slipping back and forth across the United States–Mexico border to escape capture. After the U.S. and Mexican governments formed an agreement allowing each to cross the border in pursuit of Apaches, the situation changed. General Crook, who had fought the Apaches ten years earlier, returned to the Southwest to lead American troops. After chasing the Apaches into Mexico, he negotiated an agreement with Geronimo, whose warriors settled on the San Carlos reservation in 1884. Just a year later, Geronimo and 134 other Apaches left the reservation and fought their way to Mexico where, caught between the U.S. and Mexican armies, the Apache leaders again negotiated surrender. When Geronimo and Naiche fled before reaching the reservation, Crook was replaced by Gen. Nelson Miles. Miles and five thousand troops then pursued the remaining 20 Apache men and 18 women and children. In September 1886 Geronimo surrendered for the last time. His warriors—along with Apache scouts who had helped the army track them down—were shipped to a prison in Florida.

The final clash between the United States and Native nations in the 1800s was the Wounded Knee Massacre in

what is now western South Dakota. Events were set in motion by the growing popularity of the Ghost Dance movement, which arose under the spiritual leadership of Wovoka, a Paiute. The large gatherings of passionate Indians who attended Ghost Dance ceremonies worried the U.S. government, which responded by sending the military to discourage a general uprising. Among the troops were the soldiers of the rebuilt Seventh Cavalry—who still remembered the death of Custer, their former commander.

Sitting Bull and Big Foot, a Miniconjou Lakota, were both on the army's list of troublemakers. Sitting Bull was killed on December 15, 1890, by U.S.-hired Indian police, creating an outpouring of anger and fear among the Lakotas. In an effort to find safety, Big Foot and 350 others headed south through the bitter Great Plains winter toward Red Cloud's agency on the Pine Ridge reservation. On December 29, they were intercepted by American troops and escorted to Wounded Knee Creek, just north of the Pine Ridge agency. Their encampment on Wounded Knee was then surrounded by the Seventh Cavalry under the leadership of Col. James Forsyth. The next morning, when the U.S. troops moved to disarm the Indians, a shot was fired. The army opened fire on the Indian encampment with rifles and Hotchkiss guns. Although the number of dead remains disputed, there is no doubt that at least 150 of Big Foot's followers were killed, most of them women and children. Many bodies, including Big Foot's, froze on the ground before being buried in a mass grave in Pine Ridge.

This was the inglorious conclusion to a tumultuous period. The wars between the United States and the Native nations in western North America between 1848 and 1891 decimated the Native peoples of the region, deprived them of their economies and ways of life, and resulted in their internment onto reservations. The era of Native military resistance to the United States had come to an end.

See also *American Horse*; *Apache Wars (1860-1866)*; *Army, United States*; *Assimilation and Acculturation*; *Bannock War (1878)*; *Big Foot*; *Black Elk*; *Black Hills*; *Black Kettle*; *Bosque Redondo*; *Bozeman Trail War (1865-1868)*; *Buffalo*; *Carson, Christopher "Kit"*; *Civil War (1861-1865)*; *Cochise*; *Coeur d'Alene War (1858)*; *Confederate States of America*; *Crazy Horse*; *Crook, George*; *Custer, George Armstrong*; *Dull Knife*; *Fetterman Massacre (1866)*; *Fort Laramie (1851)*, *Treaty of*; *Fort Laramie (1868)*, *Treaty of*; *Geronimo*; *Gold and Gold Rushes*; *Grant, Ulysses S.*; *Grattan Fight (1854)*; *Hump*; *Indian Peace Commission*; *Indian Territory*; *Joseph, Chief*; *Kamiakin*; *Kintpuash (Captain Jack)*; *Little Bighorn (1876)*, *Battle of*; *Little Crow*; *Mackenzie, Ranald S.*; *Mangas Coloradas*;

Medicine Lodge Creek (1867), *Treaty of*; *Miles, Nelson A.*; *Modoc War (1872-1873)*; *Navajo War (1849-1868)*; *Nez Perce War (1877)*; *Oklahoma*; *Parker, Quanah*; *Red Cloud*; *Reservations*; *Rogue River War (1855-1856)*; *Sand Creek Massacre (1864)*; *Satanta*; *Sherman, William T.*; *Sibley, Henry Hastings*; *Sitting Bull*; *Snake War (1866-1868)*; *Texas*; *United States-Dakota War (1862)*; *U.S.-Mexican War (1846-1848)*; *Victorio*; *Westward Migration*; *Wounded Knee Massacre (1890)*; *Wovoka*; *Yakama War (1855-1856)*.

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BIBLIOGRAPHY

- Aleshire, Peter. *Cochise: The Life and Times of the Great Apache Chief*. New York: John Wiley and Sons, 2001.
- . *The Fox and the Whirlwind: General George Crook and Geronimo: A Paired Biography*. New York: John Wiley and Sons, 2000.
- Brown, Dee. *Bury My Heart at Wounded Knee: An Indian History of the American West*. New York: Holt, Rinehart and Winston, 1970.
- Clodfelter, Micheal. *The Dakota War: The United States Army versus the Sioux, 1862-1865*. Jefferson, N.C.: McFarland and Company, 1998.
- Greene, Jerome A. *Nez Perce Summer, 1877*. Helena: Montana Historical Society Press, 2000.
- Marshall, Joseph M. III. *The Journey of Crazy Horse: A Lakota History*. New York: Penguin Group, 2004.
- O'Donnell, Terence. *An Arrow in the Earth: General Joel Palmer and the Indians of Oregon*. Portland: Oregon Historical Society Press, 1991.
- Sajna, Mike. *Crazy Horse: The Life Behind the Legend*. New York: John Wiley and Sons, 2000.
- Udall, Stewart L. *The Forgotten Founders: Rethinking the History of the Old West*. Washington, D.C.: Island Press/Shearwater Books, 2002.
- Utley, Robert M. *The Indian Frontier 1846-1890*. Albuquerque: University of New Mexico Press, 1984.

Urban Relocation Program

See *Relocation Program*; *Termination and Restoration*.

U.S. Interior Department

See *Interior, U.S. Department of the*.

U.S.-Mexican War (1846-1848)

The outcome of the American victory in the U.S.-Mexican War was the acquisition of a territory that now includes the states of California, Nevada, Utah, and parts of Colorado, Arizona, New Mexico, and Wyoming. While the United States benefited from the annexation of this territory and its abundant natural and mineral resources, the government assumed responsibility for the Native people who lived there.

The outbreak of war between the United States and Mexico was due to several factors, chief among them Mexico's inability to cement relations with and assert leadership over the states that were situated farthest from Mexico

The United States expanded greatly between 1776 and 1884. Under the terms of the Treaty of Guadalupe Hidalgo, the United States gained the areas of Arizona, California, Nevada, New Mexico, Utah, and parts of Colorado and Wyoming.



City. California, for example, enjoyed considerable autonomy after the 1834 secularization of the Spanish missions established earlier by the Franciscan religious order. The people of California formed commercial ties with U.S. merchants after determining that trade with New Mexico (the Mexican territory) and Sonora was limited. As a result, U.S. settlers in California were free to reject the religion and were not forced to pay the taxes imposed by the Mexican government. In New Mexico, which also traded actively with U.S. merchants, the unpopular governor attempted to install a centralized system over the indigenous peoples of the region, and tensions rose as the people resisted, favoring village life in the tradition of their cultures. In addition, merchants in northern Mexico profited from free trade, as opposed to the protectionism espoused by the national government. Furthermore, northerners had been accustomed to receiving help from the central government in fighting Indians, but this assistance was not forthcoming after Mexico achieved independence from Spain in 1821. The people of northern Mexico became increasingly estranged from the government in Mexico City.

By the 1840s many U.S. citizens had come to believe that God had preordained the expansion of their nation across

the continent into the southwest. This idea, which came to be known as “Manifest Destiny,” also formed the rationale for the U.S. diplomacy of President James Polk, who strongly favored annexing Texas. After triumphing in the 1844 presidential election by articulating his plans for western expansion, Polk grew determined to acquire territory that belonged to Mexico by peaceful means; he was not adverse, however, to threatening war if Mexico would not accept payment.

The likelihood of war increased when the Mexican government would not negotiate with John Slidell, a New Orleans lawyer sent by Polk to offer payment for New Mexico and California. President Polk sent Gen. Zachary Taylor to Corpus Christi, Texas, in an effort to claim the lands that ran to the Rio Grande, and U.S. warships anchored off the Mexican coast to prepare for an invasion. Mexico counted on European support, but Britain was engaging in a peaceful settlement of its dispute with Polk over the ownership of the Oregon territory. In April 1846, Mexican forces attacked a U.S. scouting party. Polk called for war, claiming that “American blood has been shed on American soil,” even though the attack occurred in a disputed area where few U.S. citizens resided.

Suffering military defeats at Resaca de la Palma and Palo Alto, the Mexican government soon lost prestige. Antonio Lopez de Santa Anna assumed command of the military and the government, and after forming a new army in early 1847, Santa Anna marched 250 miles to the hacienda of Buena Vista, near Saltillo. Gen. Taylor had occupied nearby Monterrey the previous fall, so the battle at Buena Vista assumed critical significance. Santa Anna fought the battle to a draw on the first day, but on February 23, 1847, the U.S. artillery proved too strong an adversary. Santa Anna retreated after learning that a revolt had erupted in Mexico City, signifying that the government had already lost momentum in prosecuting the war. Typhus killed many of Santa Anna's troops as they retreated.

American troops under Col. Stephen Kearney overran New Mexico, meanwhile, and additional forces under Alexander Doniphan seized Chihuahua. The only Mexican victory in the Southwest took place at San Pascual, 35 miles north of San Diego.

Native Americans, notably Navajos, Utes, and Zunis, began to sign peace treaties with the U.S. government, diminishing the strength of the Mexican resistance. During his retreat to Mexico City, Santa Anna also learned that Gen. Winfield Scott had successfully landed 5,500 U.S. troops at Veracruz against scant resistance, killing many civilians inside the port city. Santa Anna departed for Cerro Gordo to confront Scott, but U.S. troops outflanked and defeated the Mexican forces on April 12, 1847, after a three-hour battle. As Scott approached Mexico City, the battles became bloodier; after bitter fighting at Molino del Rey, Mexican defenders killed or wounded almost 800 U.S. troops. At Churubusco, Scott's forces encountered and defeated a large Mexican force that included several hundred U.S. deserters, most of them Irish Catholics, who had earlier formed into the San Patricio battalion. Chapultepec castle was the last barrier between U.S. forces and the capital. Heavy artillery fire demoralized the Mexican defenders, which included 100 Colegio Militar cadets. Three U.S. divisions attacked on September 12, 1847, but the cadets resisted furiously. According to legend, one cadet hauled the Mexican flag down, wrapped it around his shoulders, and hurled himself from the castle's walls. The boy heroes, as they became known, were soon a symbol of nationalistic patriotism.

Santa Anna resigned and was replaced by Manuel de la Pena y Pena, a moderate who represented the upper class fear that protracted warfare might erase Mexico from the

map. Negotiations for ending the war began in August 1847, when Nicholas Trist, Polk's emissary, agreed to an armistice and began discussions with Mexican commissioners. Polk contemplated annexing all of Mexico and recalled Trist. In the village of Guadalupe Hidalgo, a harsh treaty was drawn up, and British diplomats pressured the Mexicans to agree to the terms, under which the United States gained California, Nevada, Utah, and parts of Colorado, Arizona, New Mexico, and Wyoming at a cost of \$15 million. The United States had to assume \$3.25 million in claims by U.S. citizens against Mexico, pledge to protect Mexicans who decided to remain in the ceded territory, and try to prevent Indians within the United States from raiding into Mexico. This last provision required the United States to take actions against the Navajos and Apaches in an attempt to forestall their raids across the U.S. border. The United States also had to accept Mexican citizens, including Indians, who lived in the ceded territory as American citizens. Native Americans, particularly Navajos and Pueblos, later discovered that although the treaty confirmed 35 Spanish land grants, local American courts would not protect the Indians in these holdings. As a group, Mexican Americans and Indians living in the Mexican cession became economically marginalized and politically impotent.

The acquisition of the Mexican cession opened up the region to American settlers, miners, and immigrants of a more unscrupulous sort, a development that led to bitter conflicts with the Indian tribes that lived there. Not until the 1880s would the United States succeed in subduing the tribes—such as the Navajos and Apaches—that resisted removal to reservations.

See also *California Indians; Discovery, Doctrine of; Guadalupe Hidalgo (1848), Treaty of; Mexico, Indian Policy of; Pueblos; Taylor, Zachary.*

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BIBLIOGRAPHY

- Bauer, Jack. *The Mexican War*. Lincoln: University of Nebraska Press, 1974.
- Franaviglia, Richard G., and Douglas W. Richmond. *Dueling Eagles: Reinterpreting the U.S.-Mexican War, 1846-1848*. Fort Worth: Texas Christian University Press, 2000.
- Griswold del Castillo, Richard. *The Treaty of Guadalupe Hidalgo: A Legacy of Conflict*. Norman: University of Oklahoma Press, 1990.
- Santoni, Pedro. *Mexicans at Arms: Puro Federalists and the Politics of War, 1845-1848*. Fort Worth: Texas Christian University Press, 1996.
- Winders, Richard Bruce. *Mr. Polk's Army: The American Military Experience in the Mexican War*. College Station: Texas A&M University Press, 1997.

U.S. Supreme Court and Indian Policy, 1789–1871

Indigenous nations have a distinctive cultural, territorial, economic, constitutional, and intergovernmental status in the United States. As the original peoples of North America, the various Native nations constituted the *de facto* governments of the continent and wielded variable proprietary authority over the lands they had inhabited for millennia. As European colonization ensued, beginning in the late fifteenth century, *de jure* indigenous sovereignty was formally recognized by various European military and political figures via treaties and other diplomatic protocols that acknowledged the national status, land titles, and other inherent rights of Native peoples. Although the European colonizers recognized indigenous nations as competent to enter diplomatic agreements and as having the power to initiate warfare, they also introduced the ethnocentric and racist ideas that Native peoples' proprietary rights were, at least in some instances, inferior to those of Europeans and that indigenous peoples were technologically, culturally, and intellectually inferior to Europeans and, later, European Americans.

As the American experiment in democracy and federalism evolved, with the construction of the Articles of Confederation in 1777 and the implementation of the U.S. Constitution in 1789, one of the many factors facing the young United States was how the newly established federal government and the constituent states would deal with the physical, political, and cultural presence of Indian nations and the lands and resources controlled by those peoples.

Ironically, while Article III of the Constitution—which describes and delineates the judicial power as being vested in a supreme court and in lesser courts that Congress may establish—contains a minimal amount of language that pertains to Native peoples (that is, treaty interpretation), the judicial branch has arguably played the most significant role in defining, elaborating, clarifying, or diminishing the political, legal, and property status of indigenous nations.

Although the U.S. Supreme Court has vacillated in its efforts to balance the powers and responsibilities of the federal and state governments, tribal nations have always occupied an anomalous position vis-à-vis the federal system because of their preexisting and independently derived sovereignty, distinctive territorial bases, cultural uniqueness, and military capabilities—at least during the first century of U.S.–indigenous relations. Consequently, the Court, more so than the legislative or the executive branches, has strug-

gled with how to characterize precisely where, if at all, indigenous nations “fit” from a constitutional perspective.

During the first century of intergovernmental relations between the United States and Indian nations, Native nations were variously called “domestic dependent nations,” “distinct, independent political communities,” “a people distinct from others,” “alien nations,” and “wards of the government.” They have always been recognized as possessing certain governmental powers, but since Chief Justice John Marshall’s widely cited opinions in the 1820s and 1830s they have existed in a nebulous status as neither completely foreign nations nor domestic states. Politically and constitutionally, tribal nations are separated from the federal and state governments by their separate points of origin in time and space, but by the 1860s federal officials considered them to have acquired a subject or ward-like status, with the federal government self-situated as an entity wielding *plenary* (that is, virtually absolute) power over all things and persons indigenous. Native peoples are situated in a trust relationship to the U.S. Congress, in which the federal government is said to have a moral obligation to assist Native peoples in the protection of their lives, resources, and cultures. At the same time, they are not generally bound under the jurisdictional authority of the states and do not enjoy a trust relationship with those governments.

Within this broad and convoluted framework are lodged several principles, most of them developed by the Supreme Court, that have formed the complicated foundation of the Native–federal relationship since the early days of the United States: the doctrine of federal plenary power; the doctrine of inherent tribal sovereignty; the trust doctrine; and the doctrine of federal, not state, supremacy in administering and regulating the U.S. political and economic relationship with Native nations. It is bewildering because with the exception of the doctrine of federal plenary power, which was implicitly articulated by the Court in *United States v. Kagama*, 118 U.S. 375 (1886), the other three doctrines have been recognized and enforced inconsistently.

The commerce clause of the Constitution empowers Congress to regulate affairs with tribes. In the formative years of the United States’ development, Congress also actively sought and established a clear Indian legislative agenda. Congress could ill afford to be lackadaisical in establishing constructive relations with the tribes—tribal military power could not be wished away. Moreover, the British, Spanish, French, and other competitive European powers complicated matters because each was competing for hegemony over portions of North America. Additionally, the

struggle between the new national government and the individual states was a major concern. Despite the passage of several vital laws, there remained much uncertainty in determining how the actual tribal-federal-state-European power relationship was to be reconciled.

Chief Justice Marshall and the Development of Federal Indian Law, 1810–1835

The Supreme Court, under Chief Justice John Marshall, would be the federal institution that defined these broad relations. Even though the importance and power of Native nations was obvious in the early years of the United States, few Court cases involved Native peoples directly. There are two compelling though disparate reasons for this. First, a majority of western tribes continued to be recognized and treated as foreign and constitutionally separate nations via the treaty process.

The second, equally important reason involves the five major tribes (Cherokee, Choctaw, Chickasaw, Creek, and Seminole) of the Southeast, and the fact that they had surrendered certain sovereign powers, such as the right to conduct diplomatic relations with foreign nations, to the United States. While these tribes were diplomatically linked to the United States by treaties, their early and extended contact with federal administrators had encouraged most of these nations to develop sophisticated constitutional forms of government similar in some respects to that of the United States. When the Cherokee Nation attempted to bring a suit directly to the Supreme Court, *Cherokee Nation v. Georgia* (1831), the tribe was told in explicit terms that its “domestic-dependent” status—Marshall determined that tribes were neither foreign nations nor constitutionally recognized states—precluded such a legal action. Hence, the Court had developed a new political status for tribal nations without identifying a corresponding constitutional responsibility to protect said status because tribes were prohibited from using a direct legal avenue of redress.

Marshall is widely regarded as the most influential justice in establishing the prestige of the Court. His major opinions advanced federal supremacy over states’ rights, established the right of judicial review, and interpreted the commerce clause extensively. Marshall’s vaunted, if occasionally enigmatic, logic was equally impressive in the area of Indian law. In five cases—*Fletcher v. Peck*, 10 U.S. 87 (1810); *Johnson v. M’Intosh*, 21 U.S. 543 (1823); *Cherokee Nation v. Georgia*, 30 U.S. 1 (1831); *Worcester v. Georgia*, 31 U.S. 515 (1832); and *Mitchell v. United States*, 34 U.S. 711 (1835)—the Marshall

Court both explicated and reinforced doctrines that still form the broad parameters of the tribal-federal-state relationship today—the doctrines of discovery and conquest, the domestic-dependent status of tribal nations, trust, tribal sovereignty, and federal (as opposed to state) exclusive authority over Indian affairs.

Tribal nations emerged from the Marshall era with a profoundly contradictory political status. The Court’s articulation of the doctrine of discovery (*Johnson v. M’Intosh*) had severely limited the aboriginal proprietary rights of Indian nations. Furthermore, the Court had expressed seemingly conflicted ideas that tribes were in a relationship with the United States “resembling” that of a ward to his guardian (*Cherokee Nation v. Georgia*) while they also stood apart as both “domestic-dependent nations” (*Cherokee Nation v. Georgia*) and as “distinct, independent communities” (*Worcester v. Georgia*). The notion of wardship, which Marshall employed as an analogy, lacked any historical basis. The notion of domestic dependency was generally inaccurate as a descriptor of most tribal nations at the time. The description of tribes as independent polities in *Worcester* was the most realistic depiction.

The long-term ramifications of several of the Court’s Marshall era principles—discovery, the wardship analogy, domestic-dependent status—have usually been interpreted as distinct diminutions of tribal sovereignty. However, other Marshall era legal concepts and doctrines (found primarily in *Worcester v. Georgia*)—the supremacy of Indian treaties over state laws, the idea that Indian nations are independent communities, the principle that “discovery” merely gives whites preemptive rights to purchase Indian lands but not absolute title to those lands, the preclusion of states from interfering in tribal affairs, and the idea that Indian title is as “sacred as” that of Anglo-American fee-simple title—enabled tribes to emerge from this era with their broader political and legal sovereignty relatively intact.

The Taney Court and Indian Law

The nearly three decades between *Mitchell v. United States* (1835) and the inception of the Civil War (1861–1865) were tumultuous years in American history. The era began with the relocation of the eastern tribes to the West. From the mid-1830s to the mid-1840s, thousands of eastern and other Indians were required to sign removal treaties and accept new lands west of the Mississippi River.

A dramatic shift began in the mid-1840s and continued through the 1850s. These were the years of “Manifest

Destiny,” when the United States acquired control of large parts of the continent in the far West and encountered a new Indian frontier. These vast “purchases” physically incorporated dozens of previously unknown tribes into the United States. The result of this massive intercultural collision was a congressional policy focused on the separation and segregation of Indian nations onto diminished lands, termed “reservations,” as an ever-expanding non-Indian population moved west.

Chief Justice Roger Taney in *United States v. Rogers*, 45 U.S. 567 (1846), enunciated a novel perspective on tribal political status. In a short opinion that ignored Court precedent as well as the inclusion of Indian tribes in the commerce clause and the proliferation of Indian treaties, Taney redefined the actual legal and political relationship between tribes and the United States. Contrary to Marshall’s opinion in *Worcester*, Taney asserted that Cherokee tribal lands had been assigned to the tribal nation by the United States. He also declared that the Cherokees held their territory only with the acquiescence of the federal government. Yet Taney later wrote in the infamous opinion in *Dred Scott v. Sandford*, 60 U.S. 393 (1857), that tribes “were yet a free and independent people, associated together in nations or tribes” whose governments were regarded and treated as foreign governments, “as much so as if an ocean had separated the red man from the white.”

The inconsistent Taney Court decisions, while harmful to tribal sovereignty, did not minimize the long-term force of the concept. The Taney Court was more concerned than the Marshall Court with balancing state and federal authority and exhibited a sharper awareness of the need to maintain the relative autonomy of state governments in relation to the national government. While states’ rights activists tended to be less supportive of tribal rights during this period, there were not enough legal cases that actually led to radical diminutions of tribal sovereignty. However, Taney gave life to a new doctrinal concept, the political question, which holds that there are some issues, like Indian affairs, that are strictly the province of the political branches of the government. Tribal nations still existed, but mostly outside the scope of Anglo-American law. Western expansion and the gradual encirclement of tribes by non-Indians, increased immigration, the Civil War and Reconstruction, and burgeoning industrialization—fueled in part by transcontinental railroads—would rapidly terminate this geographical and legal isolation, however.

The Supreme Court and Indian Law after the Civil War

Within the span of five years, 1866–1871, there occurred several critical shifts in federal Indian law and policy. First, the tribes who had sided with the Confederacy in the Civil War were compelled to negotiate new treaties by which they abolished slavery and surrendered vast areas of their homelands. Second, Congress authorized an Indian Peace Commission to negotiate treaties to end the growing hostilities between western tribes and Americans. Third, in 1869 President Ulysses S. Grant and Congress authorized the creation of a ten-member Board of Indian Commissioners, composed of prominent philanthropists, to work closely with the secretary of the interior in administering the political relationship between tribes and the United States. Fourth, President Grant, in an effort to eliminate abuses in the Indian Office and as part of the larger plan to assimilate the tribes, initiated his “Peace Policy.” Grant’s policy entailed assigning responsibility for the Indian agencies scattered throughout the country to various Christian denominations. Finally, and most important, treaty making with tribal nations came under fire as the rapidity of westward expansion inspired federal officials to rethink Indian policy.

Congress approved a treaty-cessation amendment attached as a rider to an Indian appropriations bill in 1871. Although the treaty process was unilaterally discontinued by the law, the substance of treaty making continued in the form of House- and Senate-approved “agreements” between tribal nations and the United States. Nevertheless, the ending of the treaty process signaled a substantial transformation in the diplomatic procedure between Native nations and the United States. Congress increasingly acted legislatively and oftentimes without tribal consent with regard to Indians’ lands and their rights, despite the fact that they were not U.S. citizens.

It was in this political environment that the Supreme Court decided several significant cases regarding Indian property and political rights. In *United States v. Holliday*, 70 U.S. 407 (1865), the Court held that federal laws prohibiting liquor sales to Indians were applicable even to sales occurring outside the confines of a reservation. Writing for a unanimous Court, Justice Samuel Miller relied on the commerce clause in ruling that “if commerce, or traffic, or intercourse, is carried on with an Indian tribe, or with a member of such a tribe, it is subject to be regulated by Congress, although within the limits of a state.”

In *The Kansas Indians*, 72 U.S. 737 (1866), the question before the Court was whether the state of Kansas had the right to tax Indian lands held in severalty by individual Indians of three different tribes: the Shawnees, the Weas, and the Miamis. Members of these tribes had received land patents under treaties and federal law. Kansas believed it was entitled to tax, and the state had already confiscated the lands of Indians who did not pay the state's real property tax. (The aggregate amount of taxes on just the Shawnee lands in 1866 amounted to more than \$60,000.) The Court, however, unanimously held that Kansas had no right to tax Indian lands. Reaffirming *Worcester's* federal supremacy principle, Justice David Davis noted that "if the tribal organization of the Shawnees is preserved intact, and recognized by the political departments of the government as existing, then they are a 'people distinct from others,' capable of making treaties, separated from the jurisdiction of Kansas, and to be governed exclusively by the government of the Union." This essentially political definition of tribal status was quite different from the explicitly race-based definition of tribal and Indian status enunciated in *Rogers*.

Furthermore, the Court found that the Indians were not made subject to state law simply because they had started their suit in state courts. The Court declared that Indian conduct was not to be measured by the same standard applied to the conduct of other people. Tribes, Justice Davis explained, are separate peoples who live under separate governments and receive the protection of the federal government. This protection did not include a federal right to unilaterally alter tribal status or rights. As the Court clearly observed, tribal rights could only be modified by treaty provisions or if the tribal nation voluntarily abandoned its sovereignty status.

Ten days after *The Kansas Indians* was decided, the Supreme Court issued a similar ruling on the federal government's preeminent role in the field of Indian affairs. In *The New York Indians*, 72 U.S. 761 (1866), the Supreme Court unanimously held that New York State's attempt to tax Seneca Indian lands on three different reservations was illegal and void because it conflicted with rights guaranteed to the Seneca people in a treaty.

Conclusion

By 1871, in the broad cultural and political/legal landscape, Native nations and the United States generally remained virtual strangers in a strict constitutional sense. Throughout this period, the Supreme Court enunciated a conflicting array of

legal principles: tribes are "tenants" not owners of their soil, but tribes are the true owners of their lands; tribes are domestic-dependent nations, but tribes are distinct and independent nations; tribes resemble "wards," but tribes have a national status equal to that of foreign governments. Despite these contradictory judicial doctrines, tribal sovereign status remained relatively intact although it had certainly been vigorously and was being increasingly attacked by states, corporate interests, Christian reformers, and key federal officials.

In short, a fundamentally nation-to-nation relationship persisted. Even though the period witnessed forced Indian removal, sometimes fraudulent treaty negotiations, the beginnings of reservations, and equivocal language in Court rulings, the preponderance of political and legal evidence shows that the essence, if not always the exercise, of tribal sovereignty generally retained a vital force.

See also *Aboriginal Indian Title; Articles of Confederation; Cherokee Nation v. Georgia* (1831); *Civil War (1861–1865); Constitution, U.S.; Discovery, Doctrine of; Grant, Ulysses S.; Indian Commerce Clause; Johnson v. M'Intosh* (1823); *Marshall, John; Plenary Power Doctrine; Removal; Reservations; Sovereignty; States' Rights; United States v. Kagama* (1886); *Worcester v. Georgia* (1832).

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BIBLIOGRAPHY

- Deloria, Vine, Jr., and David E. Wilkins. *Tribes, Treaties, and Constitutional Tribulations*. Austin: University of Texas Press, 1999.
- Garrison, Tim Alan. *The Legal Ideology of Removal: The Southern Judiciary and the Sovereignty of Native American Nations*. Athens: University of Georgia Press, 2002.
- Norgren, Jill. *The Cherokee Cases: The Confrontation of Law and Politics*. New York: McGraw-Hill, 1996.
- Robertson, Lindsay G. *Conquest by Law: How the Discovery of America Dispossessed Indigenous Peoples of Their Lands*. New York: Oxford University Press, 2005.
- Wilkins, David E. *American Indian Sovereignty and the U.S. Supreme Court: The Masking of Justice*. Austin: University of Texas Press, 1997.
- Williams, Robert A., Jr. *Like a Loaded Weapon: The Rehnquist Court, Indian Rights, and the Legal History of Racism in America*. Minneapolis: University of Minnesota Press, 2005.
- . *The American Indian in Western Legal Thought: The Discourses of Conquest*. New York: Oxford University Press, 1990.

U.S. Supreme Court and Indian Policy, 1871–1934

The years 1871–1934 have been called the "plenary power era" of U.S. Supreme Court Indian law jurisprudence and covered the same time span as the allotment and assimilation

era of federal Indian policy. During this period, the Supreme Court decided seven major Indian law cases. Read individually, the decisions appear inconsistent with one another, almost alternately upholding and repudiating tribal rights. Nonetheless, there is a common theme: Supreme Court acquiescence to the idea of the “plenary” or absolute power of Congress over both Indian affairs and Indian tribes.

In the eighteenth and early nineteenth centuries, the Marshall Court consolidated federal power in Indian affairs, holding that the U.S. Constitution, laws, and treaties with the tribes gave the federal government power in Indian affairs that was exclusive of the states. The federal government, the Marshall era cases determined, had exclusive powers to purchase land from Indian tribes, to treat with them, and to conduct trade relations. Federal authority was “plenary” in that it left no room for the states to act independently. But the federal power that the Marshall Court recognized was the power to conduct relations *with* the Indian tribes, not to regulate the relations of tribes to their members.

That concept of federal authority began to change over the nineteenth century, as Congress asserted greater power over Indian property and Indian tribes. During the allotment and assimilation era that began around 1871 and continued until passage of the Indian Reorganization Act in 1934, the Court developed a theory of guardianship power that left Congress virtually unchecked in Indian affairs.

In essence, during the Court’s plenary power era, it deferred to whatever Congress chose to do. If Congress ratified a treaty or agreement with the Indians, the Court would uphold the guaranteed tribal rights. But if Congress legislated in ways that overrode or otherwise impacted those guaranteed rights, the Court would uphold Congress’s authority to do so. The Court during these years abdicated any responsibility to review congressional actions and disclaimed any need for Congress to act in accordance with the U.S. Constitution.

Developing the Plenary Power Approach, 1883–1903

In the first of the plenary power era decisions, *Ex Parte Crow Dog* (1883), the Court denied the federal government’s authority to exercise criminal jurisdiction in an intratribal matter. Crow Dog, a Brule Sioux, killed another Brule on the tribe’s reservation. Although the tribe quickly resolved the matter according to tribal law, the federal government tried and convicted Crow Dog in federal court. The U.S. Supreme Court held that nothing in the Sioux treaties and

agreements authorized federal jurisdiction, and that federal criminal statutes exempted Indian-on-Indian crime. Thus, no federal law authorized a federal prosecution.

When Congress responded to the *Crow Dog* case by enacting the Major Crimes Act of 1885, however, the Court upheld federal authority to prosecute Indians for crimes against other Indians. The act represented a new approach to federal Indian policy, one in which Congress would regulate the internal relations of tribal members. In *United States v. Kagama* (1886), the Court could not find a constitutional basis for the Major Crimes Act. The treaty power was inapplicable because the tribe did not have a treaty with the United States, and reliance on the Indian Commerce Clause, the Court noted, would be a “strained” reading of the Constitution. The Court upheld the law nonetheless, on the ground that the Indians were wards of the United States and that Congress must have unfettered authority to act “for the protection” of the tribes. The Court thus invoked the federal trust relationship as a source of congressional plenary power over the tribes.

A decade later, the Court heard the case of *Talton v. Mayes* (1896), in which one Cherokee killed another in Indian Country. The Cherokee Nation constituted a grand jury that did not comply with the Fifth Amendment of the U.S. Constitution and tried and convicted the defendant. The Court held that the validity of the Cherokee action was a matter for the Cherokees to determine, not the federal courts. Stating that Congress could regulate how the Cherokee Nation exercised its authority, the Court noted that Congress had not done so. The Court further held that federal power over Indian tribes did not transform tribal powers into federal powers. Tribal governmental authority preceded the Constitution, the Court ruled, and was not subordinate to it.

But when Congress did act to control tribal property, the Court issued its most sweeping statements of congressional power. The Treaty of Medicine Lodge Creek (1867) set aside a reservation for several Plains Indian tribes and guaranteed that any further cession of tribal lands required the written consent of three-fourths of the adult males. In 1892 fewer than the required number of adult males signed an agreement to allot the tribal lands and cede some two million “surplus” acres to the federal government. Tribal members opposed to the cessation claimed that the United States had to abide by the treaty and that the land loss was a violation of the tribes’ due process rights under the Fifth Amendment of the U.S. Constitution. In *Lone Wolf v. Hitchcock* (1903), the

Court determined that it was irrelevant whether the required signatures were obtained or whether the Fifth Amendment was violated. Congress, the Court held, had complete power over tribal property, as well as the power to abrogate unilaterally an Indian treaty through later legislation. The Court would presume that Congress acted in "perfect good faith" and would not "question or inquire into the motives" of its actions. In essence, Congress could do as it pleased in Indian affairs, and the Court would not interfere.

These four cases exemplify the Court's plenary power jurisprudence. In *Crow Dog* and in *Talton*, Congress had taken no action to interfere with the tribes' rights to govern themselves, and the Court resisted attempts to extend federal law to tribal matters in the absence of that action. In *Kagama* and *Lone Wolf*, by contrast, Congress had expressly legislated to govern major crimes between Indians and to control tribal property rights. The Court refused to review Congress's actions, holding that the federal guardianship power essentially authorized Congress to do whatever it believed best.

Extending the Plenary Power Approach, 1905-1913

The remaining three major cases of the plenary power era followed the same pattern. In the first two of these decisions, issued in 1905 and 1908, the Court provided strong protections for tribal rights to water and food resources. And yet the final decision of the era, in 1913, reiterated the plenary authority of Congress and the Court's refusal to review congressional action.

Shortly after the 1903 *Lone Wolf* decision, the Court decided a pair of cases that established the foundations of the reserved rights doctrines for both water and hunting and fishing rights. In both cases the federal government itself brought suit to protect tribal rights to fish and reservation water rights. And in both cases, the Court broadly construed tribal treaty rights in the Indians' favor and refused to subject tribal treaty rights to state law.

In *United States v. Winans* (1905), the federal government brought suit to prevent non-Indian landowners from interfering with tribal members who were attempting to fish on the non-Indians' land. The 1859 treaty with the Yakamas guaranteed the tribe "the right of taking fish at all usual and accustomed places, in common with citizens of the Territory," but one of the tribe's usual and accustomed places was located on land owned by the non-Indian Winans brothers. The Court noted that the Indians, in the treaty negotiations, had bargained specifically for the right to fish,

a right "not much less necessary to the existence of the Indians than the atmosphere they breathed." The treaty stipulated that the lands on which the fishing sites were located could be owned by non-Indians; the treaty right thus placed a "servitude" on the non-Indians' land. The "citizens of the Territory" who held the fishing right in common could be barred from private lands by the state law of trespass, but in order to uphold the treaty right, the Court held, the Indians had a right to cross the Winans' land and use it for the purposes guaranteed in the agreement.

Three years later the Court decided its first water rights case, *Winters v. United States* (1908). The Fort Belknap reservation was created in 1888 and bounded on the north by the Milk River. During the 1890s tribal members, federal agents on the reservation, and non-Indian farmers upstream of the reservation all used water from the river. When a severe drought left insufficient water for everyone, the federal government brought suit to protect reservation water rights. The non-Indians claimed that they had used the water first, and thus, under the prevailing western-state approach to water rights, had the superior right to it. The Supreme Court rejected this approach. It noted that the Indians had given up a nomadic way of life, been confined on a reservation, and were expected to become farmers. The Court asked rhetorically: "Did they give up all this? Did they reduce the area of their occupation and give up the waters which made it valuable or adequate?" Since the agreement establishing the reservation said nothing specifically about water, the Court concurred that the agreement was open to differing interpretations. But, the Court held, it would choose to resolve the ambiguity in favor of the Indians, particularly since that approach would give effect to the purpose of setting the reservation aside.

In the final important case from this era, *United States v. Sandoval* (1913), the Court held that Congress possessed exclusive authority to determine whether indigenous communities would be considered Indian tribes with which the federal government would deal. Echoing its decision in *Kagama*, the Court held that Congress had the right to determine when and whether to extend its guardianship role to Indian communities. That determination was not for the federal courts to make, and thus the Court would not overturn Congress's treatment of Pueblo lands as Indian Country. The *Sandoval* decision ended the Court's plenary power era with a clear statement of the governing philosophy of the period: Indian affairs were a matter for Congress, Congress had the guardianship power to determine what was best for the

Indian tribes, and the Court would not review either the validity or the wisdom of what Congress had done.

See also *Allotment in Severalty; Assimilation and Acculturation*; *Ex Parte Crow Dog* (1883); *Indian Commerce Clause*; *Lone Wolf v. Hitchcock* (1903); *Major Crimes Act* (1885); *Medicine Lodge Creek* (1867), *Treaty of*; *Talton v. Mayes* (1896); *United States v. Kagama* (1886); *United States v. Winans* (1905); *U.S. Indian Policy: Congress and the Executive, 1871–1934*; *U.S. Supreme Court and Indian Policy: 1789–1871*; *Winters v. United States* (1908); *Worcester v. Georgia* (1832).

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BIBLIOGRAPHY:

- Ex Parte Crow Dog*, 109 U.S. 556 (1883).
 Harring, Sidney L. *Crow Dog's Case: American Indian Sovereignty, Tribal Law, and United States Law in the Nineteenth Century*. New York: Cambridge University Press, 1994.
Lone Wolf v. Hitchcock, 187 U.S. 553 (1903).
 Newton, Nell Jessup. "Federal Power over Indians: Its Sources, Scope, and Limitations." *University of Pennsylvania Law Review* 132 (January 1984): 195–288.
 "Symposium: *Lone Wolf v. Hitchcock*: One Hundred Years Later." *Tulsa Law Review*, vol. 38 (2002): 1–157.
Talton v. Mayes, 163 U.S. 376 (1896).
United States v. Kagama, 118 U.S. 375 (1886).
United States v. Sandoval, 231 U.S. 28 (1913).
United States v. Winans, 198 U.S. 371 (1905).
Winters v. United States, 207 U.S. 564 (1908).

U.S. Supreme Court and Indian Policy, 1935–1965

A complete transformation in the Indian law jurisprudence of the U.S. Supreme Court occurred between 1935 and 1965. In 1935 the Court was moribund and conservative. Its thinking on Indian law reflected the plenary power doctrine, which gives Congress the ability to make policy free of judicial review, and the ongoing process of assimilating Indian nations into the dominant white American culture. In the 1950s the Court embraced the termination policy of the Eisenhower era, which sought to put an end to the nation-to-nation relationship between the federal government and Indian tribes and dissolve the territorial sovereignty of Indian reservations. The results of this policy left indigenous peoples impoverished and without land. The Court heralded the modern era of Indian law jurisprudence in *Williams v. Lee* (1959) by reaffirming a policy of promoting tribal sovereignty that recognized the continued vitality and importance of the Indian tribes as distinct nations within the United States.

The 1930s saw little significant Indian law litigation. The policy of assimilation had, in the official view, prevailed: Indian lands had been allotted, the frontier had been settled, and Indian tribes were living on reservations under the control of Indian agents. The 1932 election of Franklin D. Roosevelt, and the advent of his New Deal policy, meant a large-scale, government-directed attack on the poverty of all Americans. But this liberal model of inclusiveness failed to recognize the distinct character of the Indian nations. Roosevelt did, however, frame an Indian New Deal in the form of the Indian Reorganization Act (IRA) of 1934.

Following the plenary power model of jurisprudence established by the Court in *United States v. Kagama* (1886), the IRA received scant attention from the Supreme Court. In the Court's view, Congress had full authority to legislate tribal matters. The IRA encompassed a wide range of issues. Some of its more progressive provisions included the end of allotment of Indian land, support of Indian arts, and the financing of tribal governments. The prime objective of the IRA was to free tribes of the domination of Indian agents through the establishment of a system of self-government, modeled after that of an American small town or county jurisdiction. Tribes were to draw up their own constitutions and establish their own models of government. Elected tribal leaders would then implement these governments. Over a two-year period, 181 tribes voted to accept the provisions of the IRA, while 77 rejected them. None of this activity was the subject of Supreme Court scrutiny. Today there remains considerable resentment in Indian Country over the form of IRA-crafted tribal governments. Designed to "model" American democracy, there is a common perception in Indian Country that many tribal governments are staffed by educated elites and have little relationship to traditional Indian political and legal institutions.

The most significant line of Supreme Court decisions in this period came in Indian property rights cases. Property rights disputes abounded in the post-allotment period, as the U.S. government proceeded to sell more and more Indian lands. Although the Court issued a strong ruling in favor of tribal property rights recognized by treaty, overall its cases involving tribal property rights produced mixed results. In *United States v. Shoshone Tribe of Indians* (1938), Justice Pierce Butler, writing for a unanimous Court, held that a treaty right to land included timber and mineral resources. Butler emphasized that an Indian property right "is as sacred and as securely safeguarded as is fee simple absolute title." Butler went on to observe that since such rights ordinarily went

with the land unless expressly reserved, it was impossible for “full blood, blanket Indians, unable to read, write, or speak English” to understand this in any other way.

Three years later, in *United States v. Santa Fe Railroad* (1941), the Court held that the Hualapai tribe of Arizona had a right under aboriginal title to lands appropriated by the Santa Fe Railroad. This recognition of aboriginal title at the outset of the termination era provided an important protection for Indian lands and is now cited around the world as a leading case on indigenous land rights. The author of the opinion, Justice William O. Douglas, grew up at the edge of the Yakama reservation in southeastern Washington and served as an important defender of Indian rights in his years on the Court.

Another Shoshone case, *Northwestern Bands of Shoshone Indians v. the United States* (1945), resulted in an incoherent ruling featuring four separate opinions. In the majority opinion, Justice Stanley Reed wrote that Indian title had to be recognized by treaty, and since these particular Shoshones did not have a reservation by treaty, they had no right to their lands. Justice Douglas, joined by Justice Felix Frankfurter and Justice Frank Murphy, dissented.

Tee-Hit-Ton Indians v. United States (1955), another land case, stands as the iconic case of the termination era. At issue was whether the Tlingit tribe of Alaska was entitled to compensation under the Fifth Amendment’s “just compensation” clause for land held under aboriginal Indian title but taken by the United States for timber-harvesting purposes. Citing *Santa Fe*, the Court opined that the issue of whether aboriginal Indian title was extinguished was a political rather than a legal question, and relying on the plenary power doctrine of *Kagama* the Court went on to hold that “no case of this Court has ever held that the taking of an Indian title or use by Congress required compensation.” In essence, the Court was saying that while some kind of aboriginal Indian title might exist, if Congress abrogated title then the controversy was a political matter beyond the reach of the Court. The effect was to deny Tlingit land rights and give the federal government the right to dispose of Tlingit lands, without compensation, in any way it saw fit. Three justices, Douglas, Frankfurter, and Chief Justice Earl Warren, dissented, but the decision stands today as one of the most egregious violations of Indian rights in the Court’s history. Most modern federal Indian law experts reject *Tee-Hit-Ton* and the reasoning behind it. The U.S. government today does compensate tribes for the taking of Indian lands. Still, the legal status of Indian lands remains complex and uncertain.

Williams v. Lee, decided only four years later in 1959, restated the sovereignty-based law first established in *Worcester v. Georgia* (1832). The *Williams* case returned the Court to earlier principles that recognized the nation-to-nation status of Indians within the United States. Hugh Lee, a trader doing business within the Navajo Nation, sued a Navajo couple in an Arizona state court to collect on a debt. The couple, Paul and Lorena Williams, argued that the Navajo courts had jurisdiction over the case. The Supreme Court reversed the judgment of the Arizona Supreme Court and held that the Navajo courts had jurisdiction. The Court cited *Worcester* in establishing that the Indian nations were independent of the states and in a political relationship with the U.S. government. It then proceeded to cite treaty language that Indians generally, and the Navajos specifically, were encouraged to maintain their own tribal governments and laws on their lands “set apart” as their permanent homes. The Court reaffirmed that this was the Indian policy of the United States by holding that the tribal courts were an essential element of the ability of the tribes to govern themselves. Finally, the Court stated that “[t]he cases in this Court have consistently guarded the authority of Indian governments over their reservations.” While Justice Hugo Black’s history of the Court’s efforts to protect Native rights was rather overstated, the abrupt change of course from *Tee-Hit-Ton* clearly reflected the intellectual power and leadership of Chief Justice Warren and Justice Douglas in righting previous wrongs.

The Supreme Court in *Williams* effectively marked the legal end of the termination policy just as Congress itself was beginning to abandon its legislative components. The thirty years from 1935 to 1965 saw convoluted change in Supreme Court Indian law jurisprudence, from the laissez-faire conservatism of the early twentieth century, to the nadir of legal treatment of Indians and Indian land rights during the Eisenhower era, to, finally, the Warren Court’s activism and restoration of the right of Indians to govern themselves as distinct peoples.

See also *Indian New Deal*; *Indian Reorganization Act* (1934); *Roosevelt, Franklin D.*; *Tee-Hit-Ton Indians v. United States* (1955); *United States v. Kagama* (1886); *United States v. Shoshone Tribe of Indians* (1938); *Williams v. Lee* (1959); *Worcester v. Georgia* (1832).

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BIBLIOGRAPHY

- Deloria, Vine, Jr. *American Indian Policy in the Twentieth Century*. Norman: University of Oklahoma Press, 1985.
- McMillan, Christian. *Making Indian Law: The Hualapai Land Case and the Birth of Ethnohistory*. New Haven, Conn.: Yale University Press, 2006.
- Northwestern Bands of Shoshone Indians v. the United States*, 324 U.S. 335 (1945).
- Tee-Hit-Ton Indians v. United States*, 348 U.S. 272 (1955).
- United States v. Santa Fe Railroad*, 314 U.S. 339 (1941).
- United States v. Shoshone Tribe of Indians*, 304 U.S. 111 (1938).
- Wilkins, David E. *American Indian Sovereignty and the U.S. Supreme Court: The Masking of Justice*. Austin: University of Texas Press, 1997.
- Wilkins, David E., and K. Tsianini Lomawaima. *Uneven Ground: American Indian Sovereignty and Federal Law*. Norman: University of Oklahoma Press, 2001.
- Wilkinson, Charles F. *American Indians, Time, and the Law: Native Societies in Modern Constitutional Democracy*. New Haven, Conn.: Yale University Press, 1987.

U.S. Supreme Court and Indian Policy, 1966–1977

During the period 1966 to 1977, congressional policy on Indian affairs experienced monumental change, and the U.S. Supreme Court handled at least thirty-one Indian law-related cases. The critical cases dealt with issues arising from treaty rights, Indian preference in federal employment, taxation, land claims, and federal authority in Indian affairs. The period is characterized by conflicting decisions and confusing reasoning from the Court. The decisions of Justices Harry A. Blackmun, William J. Brennan Jr., and William O. Douglas tended to favor tribal interests.

Congressional Policy, Indian Preference, and Tribal Status

By 1966 Congress had begun to move away from termination era policy, launched in 1953 with the passage of House Concurrent Resolution 108 with the goal of the federal government ending its trust relationship to the tribes. President Lyndon B. Johnson's 1968 message to Congress stated that federal Indian policy should be based on "Indian self-help and with respect for Indian culture" (McNickle, *Native American Tribalism*, 1973, 124). President Richard M. Nixon's 1970 message to Congress reiterated the new policy and offered a slate of legislation aimed at Indian self-determination. The focal point of a spate of legislation in Indian affairs was the Indian Self-Determination and Educational Assistance Act of 1975, which established that explicit congressional policy would be geared toward Indian self-deter-

mination. In 1977 the American Indian Policy Review Commission, the first federal study group including a significant number of Indian contributors and participants, issued a multivolume report highly critical of the termination era and recommending major policy change in Indian affairs.

One of the critical provisions in the Indian Reorganization Act of 1934 required the Office of Indian Affairs (OIA, later renamed the Bureau of Indian Affairs, BIA) to grant preference in employment decisions, especially hiring, to American Indians. Congress intended that because the office was charged with dealing with Indian affairs—and in many instances controlling Indian affairs and tribal property—American Indians should be in charge of the office. In Title VII of the Civil Rights Act of 1964, the statute prohibiting race discrimination in employment, Congress excluded Indian preference provisions from the scope of the statute. A decade later, the Supreme Court decided *Morton v. Mancari* (1974), a challenge to the BIA's Indian preference regulations on the grounds that they violated the Fifth Amendment due process clause and denied non-Indians at the bureau the equal protection of the laws. The Court rejected the challenge and relied in large part on congressional policy.

First, the Court recognized that the Bureau of Indian Affairs is unlike any other agency; it is *sui generis*. The Court noted that all legislation in the area of federal Indian law and policy singles out Indians for special treatment—sometimes preferentially, sometimes detrimentally—and that the impact of a ruling striking down Indian preference provisions might threaten the entire body of federal Indian law. Second, the Court held that American Indian-oriented legislation and policy is not based in race discrimination, as the petitioners had alleged, but on the political relationship between Indian tribes and individual Indians and the federal government. In a footnote that may become one of the most important in twenty-first-century federal Indian law and policy, the Court stated that Indian preferences are based on the political status of Indians: "The preference is not directed towards a 'racial' group consisting of 'Indians'; instead, it applies only to members of 'federally recognized' tribes. This operates to exclude many individuals who are racially to be classified as 'Indians.' In this sense, the preference is political rather than racial in nature" (*Mancari*, 417 U.S. 553 n. 24 [1974]). The Court also observed that the Indian preference provision serves to promote congressional policy favoring tribal self-government.

In the following years, the Supreme Court twice reaffirmed the principle that Indian-focused legislation is based

on the “political status” of Indians and not on race discrimination. In *Fisher v. District Court* (1976), the justices ruled that Montana courts could not have jurisdiction over an adoption proceeding involving solely tribal members who lived in Indian Country. The Northern Cheyenne tribal court retained exclusive jurisdiction of such proceedings. The Court rejected an argument that denying access to Montana courts was race discrimination, stating, “The exclusive jurisdiction of the Tribal Court does not derive from the race of the plaintiff but rather from the quasi-sovereign status of the Northern Cheyenne Tribe under federal law” (*Fisher*, 424 U.S. 382, 390 [1976]). In *United States v. Antelope* (1977), the Court upheld the first-degree murder convictions of two Indians in federal court. Federal jurisdiction in the case rested on the Major Crimes Act. Had the defendants not been American Indians, the state of Idaho would have had jurisdiction. Under Idaho law, the prosecutor would have had to prove intent to murder, but under federal law, the prosecutor did not have that burden. The Indians argued that they were denied the equal protection of the laws on the basis of race—that is, their Indian status. The Court disagreed, holding that the Indians “were not subjected to federal criminal jurisdiction because they are of the Indian race but because they are enrolled members of the Coeur d’Alene Tribe” (*Antelope*, 430 U.S. 641, 646 [1977]).

Taxation in Indian Country

The Supreme Court’s decisions in the area of taxation in Indian Country have suffered from confusing and contradictory analysis. This is exemplified by the companion cases *McClanahan v. Arizona State Tax Commission* (1973) and *Mescalero Apache Tribe v. Jones* (1973). In *McClanahan*, the Court held that the state of Arizona cannot tax the income of reservation Indians earned on-reservation. The decision rested on whether the Arizona tax infringed on the internal affairs of the Navajo Nation, a test formulated in *Williams v. Lee* (1959). The Court reasoned that the *Williams* infringement test derived from *Worcester v. Georgia* (1832), which held that state laws had “no force” in Indian Country. The *McClanahan* Court noted, however, that the Court’s precedents had long ago moved away from the “platonic” *Worcester* rule and instead focused on whether Indian treaties and federal statutes preempted the application of state laws in Indian Country. Tribal sovereignty alone could not prevent the imposition of state law, but acted as “backdrop” to the analysis. Justice Thurgood Marshall’s opinion made clear that the backdrop of federal Indian law served to create a presump-

tion that state law would not apply in Indian Country unless Congress gave explicit authority to the state. As such, the Court relied upon the 1868 treaty with the Navajo Nation that set aside the reservation as a permanent home, to the exclusion of whites, to find that the state tax was preempted.

In *Jones*, the Court held that the state of New Mexico can tax a ski resort owned by the Jicarilla Apache Tribe but located outside the boundaries of the tribe’s reservation. The Court relied on the *McClanahan* decision to find that in general, state taxes may not reach inside of Indian Country, but that state taxes will apply to Indian activities conducted off the reservation. The tribe argued that Congress’s intent in the Indian Reorganization Act of 1934 was to encourage tribes to form economic development corporations for the purpose of generating government revenue and that allowing a state to tax such activities would thwart the purpose of the act. The Court disagreed, asserting that it believed Congress never would have allowed tribes to engage in tax-free economic development outside of Indian Country. One twist in the case was that the ski resort in question was located on lands owned by the federal government and held in trust for the benefit of the tribe, also in accordance with the Indian Reorganization Act. The Court rejected the claim that the trust status of the land conferred tax immunity, but it also held that any permanent improvements made by the tribe on the land, such as the ski lift, would be immune from state taxation.

Three years later, in *Moe v. Confederated Salish and Kootenai Tribes* (1976), the Court revisited the preemption test introduced in *McClanahan*. In *Moe*, the Court held that Montana cannot impose its excise taxes on the sales of a smoke shop owned and operated by a reservation Indian on tribal trust lands. The Court recognized that the federal statutes and relevant treaties were indistinguishable from the federal statutes and treaties in the *McClanahan* case, but it did not end its analysis there. In *Jones*, the Court had summarized *McClanahan* by noting that “absent congressional consent,” a state may not tax the activities of reservation Indians in Indian Country. Justice William H. Rehnquist’s opinion reversed the presumption identified in *McClanahan* by asserting that state law *would* apply in Indian Country absent federal legislation or treaty provisions to the contrary.

A few short months later, the Supreme Court decided another tax case, *Bryan v. Itasca County* (1976). In this case, the Court held that Public Law 280, a statute enacted in 1953 that extended state court jurisdiction into Indian Country in certain states (including Minnesota), did not

authorize Minnesota to tax the property of reservation Indians. The case turned on congressional intent in enacting the law. Section 2 of the statute extended state criminal laws and jurisdiction into Indian Country because Congress believed that much of Indian Country was riddled with lawlessness. Under section 2, states and local governments became the primary law enforcement agents in affected Indian Country. Congress added section 4, a parallel provision purporting to extend state court civil jurisdiction into Indian Country, as an afterthought. There was little debate in Congress about section 4, but it was clear that Congress only intended to permit state courts to entertain lawsuits originating in Indian Country and did not intend to extend state taxation authority into Indian Country. Justice Harry Blackmun's opinion restored the prominence of the *McClanahan* presumption favoring tribal immunity from state taxation, but did not address the apparent conflict in *Moe*. In later cases, this would prove to be injurious to tribal interests.

Land Claims, Hunting Rights, and Fishing Rights

In 1966 Congress did away with a flat statute of limitations period for Indian land claims as a matter of policy. Congress and the Department of Justice were concerned that the U.S. government would be liable to Indian tribes for perhaps billions of dollars if tribal land claims were dismissed for failure to prosecute the claims in a timely matter. Because the federal government often was a party to transactions in which land claims arose and had control over the documents that could prove the viability of a land claim, the government had an interest in preserving the claims.

In 1970 the Oneida Nation brought a test case against the state of New York and two counties claiming that the state and the counties acquired certain parcels of land in violation of the Trade and Intercourse Act of 1790, making the transaction null and void. The act prohibited states and all others from entering into treaties or land sales transactions with Indians and Indian tribes absent congressional approval. In *Oneida Indian Nation v. Oneida County* (1974), the Supreme Court decided to rule only on whether the state or federal courts had jurisdiction. Per Justice Byron R. White, the Court held that the Oneidas' property brought the claim into federal court under federal law. It would later determine whether the claim had merit and what kinds of defenses the state and counties could raise.

The most contentious Indian affairs litigation of the 1960s and 1970s involved the hunting and fishing treaty

rights of Indian tribes, especially in the Pacific Northwest, the Great Lakes region, and in California. The disputes between Indian fishers and hunters on one side and the state of Washington on the other generated four Supreme Court decisions between 1966 and 1977. In *Puyallup I—Puyallup Tribe v. Department of Game of State of Washington* (1968)—the Court held that tribal off-reservation fishing could be regulated by Washington even though the Indians' treaty right existed prior to the existence of the state; the state had the authority to impose regulations on off-reservation treaty fishing reasonably necessary to conservation efforts. Although the fishing rights derived from the 1855 Treaty of Medicine Creek for the express purpose of ensuring a continuing means of livelihood for the Puyallup and Nisqually Indians, the state game department went on to promulgate vague rules of conservation in accordance with *Puyallup I* that were enforced by state officers in a manner that all but precluded off-reservation treaty fishing. In *Puyallup II* (1973), the Court struck down the state's regulations on steelhead trout fishing because they discriminated against Indian fishers. The regulations had banned net fishing, a method used by the treaty fishers. In *Puyallup III* (1977), the Court struck down state regulations attempting to regulate the on-reservation fishing activities of the Puyallup tribe and its members on the basis that the tribe retained sovereign immunity vis-à-vis the state's enforcement efforts. The Court, however, upheld the state's off-reservation steelhead trout harvest limitations as reasonably necessary to conserve the resource.

In *Antoine v. Washington* (1975), the Supreme Court struck down the state court conviction of two Indians for deer hunting on former reservation lands outside of the state-mandated hunting season. The Court found that President Ulysses S. Grant's executive order of 1872 creating the Colville Indian reservation—modified by a series of congressional acts, including an important 1891 "agreement"—preserved the tribal right to hunt and fish within the reservation's original boundaries. Justice William O. Douglas's concurring opinion explained the history of the 1891 agreement, in which the tribes agreed to cede large amounts of land, but reserved the right to hunt and fish on the ceded lands "in common" with others. The state had argued that an 1871 act stripping the president of power to negotiate treaties with Indian tribes served to nullify the agreement; the Court disagreed.

Concerning the Great Lakes region, the Supreme Court decided whether an act of Congress terminating an Indian

tribe has the effect of abrogating the tribe's treaty rights as well. In *Menominee Tribe v. United States* (1968), the Court held that treaty rights reserved in the 1854 Wolf River Treaty survived the Menominee tribe's termination act of 1954. The termination act was silent on the hunting and fishing rights of the tribe. The Court's precedents had long held that Indian treaty rights remained extant unless Congress expressly abrogated them. Justice Douglas wrote, "We decline to construe the Termination Act as a backhanded way of abrogating the hunting and fishing rights of these Indians" (*Menominee Tribe*, 391 U.S. 404, 412 [1968]).

In *Mattz v. Arnett* (1973), the Court held that the state of California could not enforce its hunting and fishing laws within the Klamath River reservation, which had been established as an extension of the Hoopa Valley Indian reservation in 1891. A year later, Congress authorized the allotment of the reservation. The state argued that the allotment amounted to the disestablishment of the reservation. The Court disagreed, noting that nothing in the allotment act provided for the termination of the reservation and that Congress had intended to retain the reservation's boundaries.

Federal-Tribal Trust Relationship

With the advent of an express self-determination policy, the Supreme Court acted in three important cases to clarify the authority of the federal government as to Indian affairs. In *Morton v. Ruiz* (1974), the Court held that the Bureau of Indian Affairs must provide general assistance funds to Indians living off-reservation, as long as the Indians retained some connection to their tribe, such as tribal membership. The BIA had promulgated guidance in its manual that urban Indians and Indians from Alaska and Oklahoma were no longer eligible for federal assistance from the bureau. The Court held that the Snyder Act of 1921 mandated that the bureau provide services to "Indians throughout the United States" and that the BIA had no discretion to limit the provision of services.

The Supreme Court also clarified Congress's authority in regard to Indian affairs. In *Delaware Tribal Business Committee v. Weeks* (1977), the Court, per Justice Brennan, announced a limitation on the plenary power of Congress to legislate in the field of Indian affairs by simply hearing the case. Prior to *Weeks*, the Court had held in almost every case dating back to the mid-nineteenth century that acts of Congress relating to Indians were political questions which the Court would refuse to hear. The *Weeks* case dealt with a statute distributing Indian Claims Commission judgment funds to the

Delaware tribe, but excluding the Kansas Delawares, whom Congress found to have severed ties with the rest of the tribe. Brennan upheld the statute from a challenge by the Kansas Delawares, holding that Congress's exclusion of that portion of the tribe from the judgment funds was rationally related to its unique relationship with Indian tribes.

In *United States v. Mazurie* (1975), the Court, per Justice Rehnquist, upheld the federal convictions of two non-Indians who had operated a bar on non-Indian-owned land within the reservation without first procuring a tribal liquor license. The defendants argued that the conviction was invalid because Indian tribes did not have jurisdiction over non-Indians on non-Indian-owned land, but the Court held that Congress can properly delegate its authority to regulate liquor consumption and sales in Indian Country to Indian tribes.

See also *American Indian Policy Review Commission; Bureau of Indian Affairs (BIA); Fishing, Hunting, and Gathering Rights; House Concurrent Resolution 108 (1953); Indian Country; Indian Reorganization Act (1934); Indian Self-Determination and Education Assistance Act (1975); Land Claims Settlement Acts; Major Crimes Act (1885); Menominee Tribe v. United States (1968); Morton v. Mancari (1974); Nixon, Richard M.; Public Law 280 (1953); Self-Determination; Taxation; Termination and Restoration; Trade and Intercourse Acts.*

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BIBLIOGRAPHY

- Antoine v. Washington*, 420 U.S. 194 (1975).
- Bryan v. Itasca County*, 426 U.S. 373 (1976).
- DeCoteau v. District Court for the Tenth Judicial District*, 420 U.S. 425 (1975).
- Delaware Tribal Business Committee v. Weeks*, 430 U.S. 73 (1977).
- Department of Game of State of Washington v. Puyallup Tribe*, 414 U.S. 44 (1973) (Puyallup II).
- Fisher v. District Court of Sixteenth Judicial District, Montana*, 424 U.S. 382 (1976).
- Fletcher, Matthew L. M. "The Supreme Court and Federal Indian Policy." *Nebraska Law Review* 85 (2006): 121–185.
- Johnson, Ralph W. "The States versus Indian Off-Reservation Fishing: A United States Supreme Court Error." *Washington Law Review* 47 (March 1972): 207–236.
- Mattz v. Arnett*, 412 U.S. 481 (1973).
- McClanahan v. Arizona State Tax Commission*, 411 U.S. 164 (1973).
- McNickle, D'Arcy. *Native American Tribalism: Indian Survivals and Renewals*. Rev. ed. London: Oxford University Press, 1973.
- Menominee Tribe v. United States*, 391 U.S. 404 (1968).
- Mescalero Apache Tribe v. Jones*, 411 U.S. 145 (1973).
- Moe v. Confederated Salish & Kootenai Tribes of Flathead Reservation*, 425 U.S. 463 (1976).
- Morton v. Mancari*, 417 U.S. 535 (1974).
- Morton v. Ruiz*, 415 U.S. 199 (1974).

Oneida Indian Nation of N.Y. v. Oneida County, N.Y., 414 U.S. 661 (1974).

Puyallup Tribe v. Department of Game of State of Washington, 391 U.S. 392 (1968) (Puyallup I).

Puyallup Tribe v. Department of Game of State of Washington, 433 U.S. 165 (1977) (Puyallup III).

United States v. Antelope, 430 U.S. 641 (1977).

United States v. Mazurie, 419 U.S. 544 (1975).

Williams v. Lee, 358 U.S. 217 (1959).

Worcester v. Georgia, 31 U.S. 515 (1832).

U.S. Supreme Court and Indian Policy, 1978–

Between 1978 and 2008, over the course of some fifty important cases, the U.S. Supreme Court built up an uneven record on matters of Indian law and policy. The early 1970s had seen an emphasis on the policy of tribal sovereignty in all three branches of the federal government. However, 1978 turned out to be a pivotal year, as the Supreme Court delivered a far-reaching decision that dealt with what would be the overriding issue for the thirty years that followed: the extent of tribal sovereignty, particularly over non-Indians. Although Congress and the executive branch continued to pursue a policy of tribal self-determination, the Court launched an era of making federal Indian law that is often inconsistent with the stated approach of the political branches. With the elevation of William Rehnquist to chief justice in 1986, the Court's approach became increasingly hostile to tribal authority, a trend that has continued under the current chief justice, John Roberts, who was appointed in 2005.

The New Approach

The most significant case was *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978). The basic question decided in *Oliphant* was whether tribal courts have criminal jurisdiction over non-Indians on reservation lands. Justice William Rehnquist, writing the majority opinion, declared that because Indian tribes “come under the territorial sovereignty of the United States,” tribal authority “is constrained so as not to conflict with the interests of this overriding sovereignty.” Because of the federal interest in the liberty of U.S. citizens, the Court said, tribes could not exercise criminal jurisdiction over non-Indians; that jurisdiction would be inconsistent with national interests. This limitation on tribal power did not arise from a treaty or a statute, but rather from the dependent status of Indian tribes. The doctrine announced in *Oliphant* has come to be known as implicit divestiture of tribal sovereign powers.

Only two weeks later, however, the Court held that tribal authority to prosecute tribal members for offenses against tribal law was not inconsistent with dependent status. In *United States v. Wheeler*, 435 U.S. 313 (1978), Justice Potter Stewart delivered an opinion that declared that “tribal courts are important mechanisms for protecting significant tribal interests,” and that federal courts and tribal courts are “arms of separate sovereigns.”

Three years after *Oliphant*, the Court applied that decision's approach to tribal authority to regulate non-Indians on non-Indian land within reservations. The Crow Tribe had enacted a law forbidding non-Indians from hunting and fishing within the reservation, even on lands owned by non-Indians. In *Montana v. United States*, 450 U.S. 544 (1981), another decision by Justice Potter Stewart, the Court held that Indian tribes were, in general, divested of authority over non-Indians on non-Indian fee land because that tribal authority was inconsistent with dependent status. The Court did, however, recognize two important situations in which tribal authority to regulate was preserved: where the non-Indian had entered into “consensual relationships” with the tribe or its members, and where the non-Indian conduct had direct effects on such core tribal governmental interests as political integrity, economic security, and health and welfare. Because the Court found that neither situation applied to non-Indian hunting and fishing, however, the Crow Tribe's law was held invalid.

In the years immediately surrounding *Oliphant* and *Montana*, the Court was not yet applying its new implicit divestiture approach to all cases involving tribal sovereign authority. In 1980, for example, the Court held in *Washington v. Confederated Tribes of the Colville Reservation*, 447 U.S. 134, that Indian tribes retained the power to tax purchases by non-Indians at tribal stores. In 1982, in a case that cited neither *Oliphant* nor *Montana*, the Court ruled that tribes had the power to tax as a means of controlling economic activities within their reservations and as a means of raising revenues. Thus, in *Merriion v. Jicarilla Apache Tribe*, 455 U.S. 130 (1982), the Court upheld a tribal severance tax on non-Indian oil and gas production on tribal lands. The Court specifically noted that a tribe did not need to preserve its sovereign powers in leases or contracts with non-Indian companies.

Cases during these years also addressed state authority over nonmembers on reservations. Two cases in 1980 addressed state jurisdiction to tax non-Indians engaged in commercial activities on reservations. In *White Mountain*



Native Americans perform an honor song during a rally outside the U.S. Supreme Court in October 2002. Supporters of tribal sovereignty gathered in a display before the Court, which had several cases on its docket regarding tribal autonomy.

Apache Tribe v. Bracker, 448 U.S. 136 (1980), the Court struck down state taxes on a logging company doing business solely on tribal lands and over tribal and Bureau of Indian Affairs (BIA) roads. The Court held that the detailed federal laws and regulations governing timber harvesting on Indian lands preempted the state taxes. In the *Colville* case, mentioned above, however, the Court held that states could tax purchases by non-Indians at tribal stores. No federal law barred them from doing so, and the Court determined that concurrent state taxes would not interfere with tribal rights of self-government. Three years later, however, in *New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324 (1983), the Court held that the state did not have concurrent jurisdiction with the tribe to regulate non-Indian hunting on tribal lands within the reservation. In that case, the tribal government's authority to regulate, and the wide-ranging tribal/federal wildlife management scheme that was in place, preempted the state's authority to regulate.

State Authority over Tribes and Their Citizens

Since 1978 the Court has generally adhered to the long-standing principle that states have no authority over tribes and their members within Indian Country unless Congress grants that power to the states. *California v. Cabazon Band of Mission Indians*, 480 U.S. 203 (1987), contradicts that principle. The Court rejected the tribe's argument that state regulatory authority over tribes was automatically preempted,

determining that when tribes are dealing with nonmembers, the question is one of federal preemption of state authority. Nonetheless, the Court held that California had no authority to impose its bingo regulations on tribal gaming because it would interfere with the strong tribal and federal interests in promoting tribal economic development. This decision opened the way for the modern Indian gaming industry.

In the context of taxation, the Court has issued a stronger ruling. In a series of cases, from *Montana v. Blackfeet Tribe*, 471 U.S. 759 (1985), to *Oklahoma Tax Commission v. Chickasaw Nation*, 515 U.S. 450 (1995), the Court has repeatedly held that states may not tax tribes or their members in Indian Country without clear congressional authorization.

State-Tribal Authority over Nonmembers

Many of the Court's most activist, and most controversial, decisions since the early 1980s involve questions of state and tribal authority over nonmembers of the tribe acting within Indian Country. In general, the Court has consistently limited tribal authority at the cost of increased state authority.

As indicated in the previous sections, states that assert authority over nonmembers in Indian Country may be preempted by federal law. If Congress has enacted a statutory scheme that leaves no room for states, then state authority to regulate or tax is preempted. Thus, for example, federal statutes and regulations governing timber harvests on Indian lands preempted state taxes on a non-Indian logging compa-

ny (*White Mountain Apache Tribe v. Bracker*, 448 U.S. 136 [1980]). But if the statutory scheme is not comprehensive, so that the state has some regulatory authority, then state taxes may be permitted. In *Cotton Petroleum Corporation v. New Mexico*, 490 U.S. 163 (1989), the Court allowed state taxes on non-Indian mining companies extracting oil and gas on tribal lands, in part because the state regulated certain aspects of the oil and gas wells. Even if there is no comprehensive federal statutory scheme, strong federal and tribal interests may outweigh state interests. In both *New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324 (1983), and *California v. Cabazon Band of Mission Indians*, the Supreme Court held that federal and tribal interests in economic development, coupled with federal and tribal development of fish and game resources (in *Mescalero*) and bingo facilities (in *Cabazon*) preempted state regulatory authority. In contrast, the Court held in *Washington v. Confederated Tribes of the Colville Reservation*, 447 U.S. 134 (1980), that state taxes on tobacco products purchased by nonmembers were not preempted because the tribes were merely reselling a product produced off-reservation.

Since 1981 cases involving tribal civil authority over nonmembers have increasingly relied on the implicit divestiture doctrine of *Montana v. United States*: tribes generally may not exercise civil authority over nonmembers on non-trust lands within Indian Country unless the nonmembers have some sort of consensual relationship with the tribe or its members, or the nonmembers' activities have adverse impacts on core tribal government interests such as the health and welfare of the tribal community. In the years following *Montana*, the Court first applied this approach in an increasingly restrictive manner to tribal regulatory authority, then to the authority of tribal courts to hear lawsuits, and finally to tribal taxing authority.

As to tribal regulatory authority, the Court held in *Montana* itself that the Crow Tribe had no authority to apply its fish and game laws to nonmembers on non-tribal lands within the Crow reservation. Subsequently, the Court found that tribes also could not apply their zoning laws to nonmember land in most areas of reservations (*Brendale v. Confederated Tribes and Bands of the Yakima Reservation*, 492 U.S. 408 [1989]), or their fish and game regulations to nonmembers on federal lands within a reservation (*South Dakota v. Bourland*, 508 U.S. 679 [1993]).

Tribal authority to adjudicate lawsuits involving nonmember parties was not initially a matter of implicit divestiture. In *National Farmers Union Insurance Companies v. Crow*

Tribe, 471 U.S. 845 (1985), the Court announced an “exhaustion” rule for cases brought in federal court that were arguably within the jurisdiction of the tribal courts as well. Nonmember parties, the Court held, would be required to exhaust any available tribal remedies before pursuing a remedy in federal court. In the opinion by Justice John Paul Stevens, the Court expressly refused to follow the approach of *Oliphant v. Suquamish Indian Tribe*, finding that tribal authority to adjudicate civil disputes involving nonmembers was not automatically divested.

A dozen years later, however, the Court applied the *Montana* approach to a question of the tribal court's authority to hear a lawsuit. In *Strate v. A-1 Contractors*, 520 U.S. 438 (1997), a nonmember resident of the Fort Berthold reservation was injured in a car accident on a state road within the reservation. The resident sued the driver, also a nonmember, in tribal court. The Court first determined that although the road was built on trust lands, it was the “equivalent” of non-trust lands for jurisdictional purposes. Then, using the two *Montana* exceptions to the general lack of tribal authority, the Court determined that the defendant driver had no consensual relationship with the tribe or its members. The Court specifically acknowledged that nonmembers who drove carelessly on state roads within reservations “surely jeopardize the safety of tribal members.” Nonetheless, the Court held that as insufficient for tribal court jurisdiction because it would “severely shrink” the general rule against tribal authority over nonmembers. Similarly, in *Nevada v. Hicks*, 533 U.S. 353 (2001), the Court held that a tribal court could not hear a case brought by a tribal member against state game wardens for damaging his property in the course of serving a search warrant for an off-reservation crime. Even though the search warrant was served on trust land within the reservation, the Court stated that the tribe could not assert authority over state law enforcement officers in the execution of a search warrant related to an off-reservation crime. Most recently, an Indian couple who leased fee land within a reservation with an option to purchase sued a non-Indian bank in tribal court for discrimination when the bank sold the land to non-Indians instead. In *Plains Commerce Bank v. Long Family Land & Cattle Company*, 554 U.S. —, 128 S.Ct. 2709 (2008), the Court held that the tribal court had no jurisdiction to hear the lawsuit. In an opinion by Chief Justice John Roberts, the Court held that neither *Montana* exception for tribal authority applied because the tribe would have had no authority to regulate the sale of the fee land.

The Supreme Court has also applied the *Montana* approach to tribal taxation of nonmembers within Indian Country. In 1982 the Court upheld the authority of tribes to tax non-Indian companies on tribal lands, without mentioning the *Montana* case (*Merrion v. Jicarilla Apache Tribe*, 455 U.S. 130). Nonetheless, in *Atkinson Trading Company v. Shirley*, 532 U.S. 645 (2001), the Court applied the *Montana* approach to a Navajo tax on hotel guests within the reservation. The tax was challenged by a nonmember hotel owner on non-trust lands, whose nonmember guests would be paying the tax. The Court held that the nonmember guests had no consensual relationship with the Navajo Nation and dismissed the idea that the hotel had any direct impacts on Navajo governmental interests.

During these years the Court also restricted tribal criminal authority over nonmembers. After holding in *Oliphant* in 1978 that Indian tribes had no criminal jurisdiction over non-Indians, the Court extended the ruling in 1990. In *Duro v. Reina*, 495 U.S. 676, the Court held that tribes also had no criminal jurisdiction over Indians who were not members of the prosecuting tribe. In part because this decision meant that no government—state, tribal, or federal—had authority to prosecute nonmember Indians for minor crimes, Congress responded quickly with the “*Duro* fix” legislation, recognizing and affirming the “inherent power” of tribes to exercise criminal jurisdiction over all Indians. The legislation was challenged on the ground that Congress could not restore inherent powers that the Court had ruled were divested, but in *United States v. Lara*, 541 U.S. 193 (2004), the Court determined that its rulings on tribal powers are common law decisions that Congress may alter. Congress, the Court held, may “relax” restrictions on tribal authority imposed by the Court.

State and Tribal Sovereign Immunity

During this period the Court decided several cases on both state and tribal sovereign immunity from suit. The Court ruled twice against tribes’ ability to sue states in federal court without the consent of the states, in *Idaho v. Coeur d’Alene Tribe of Idaho*, 521 U.S. 261 (1997), and *Blatchford v. Native Village of Noatak*, 501 U.S. 775 (1991), although it reaffirmed in *Idaho v. United States*, 533 U.S. 262 (2001), that the federal government can sue states on the tribes’ behalf. In addition, the Court held that Congress has no power under the Indian commerce clause of the Constitution to waive state immunity from suit by Indian tribes (*Seminole Tribe of Florida v. Florida*, 517 U.S. 44 [1996]).

In 1998 the Court, in *Kiowa Tribe of Oklahoma v. Manufacturing Technologies, Inc.*, 523 U.S. 751, broadly affirmed tribal sovereign immunity from suit without the tribe’s consent or a federal waiver. In an opinion by Justice Anthony Kennedy, the Court held that tribes enjoyed sovereign immunity from suit even for transactions that occurred off-reservation and even though the tribe was acting in a business rather than a governmental capacity. Tribes may waive their sovereign immunity through clear action, however, and the Court subsequently held in *C & L Enterprises, Inc., v. Citizen Band of Potawatomi Indian Tribe of Oklahoma*, 532 U.S. 411 (2001), that an arbitration agreement in a tribal contract was a clear waiver of the tribe’s sovereign immunity.

Federal-Tribal Relations

Since 1978 the Supreme Court has decided a mixed bag of decisions concerning tribal-federal relations. In that year the Court interpreted the Indian Civil Rights Act of 1968 (ICRA). Julia Martinez sued her tribe in federal court, claiming that its gender-based membership rules violated ICRA’s guarantee of equal protection. In *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, the Court held that ICRA did not abrogate tribal sovereign immunity from suit and did not create a cause of action in federal court. Claims of violations of ICRA, the Court determined, can only be addressed by the tribes.

Several cases have addressed treaty rights. In *United States v. Sioux Nation*, 448 U.S. 371 (1980), the Court held that although Congress could abrogate Indian treaties, if it failed to adequately compensate the tribe, the tribe could assert a claim against the United States for unconstitutional takings. In that case the Court upheld an award of \$17 million plus interest for the federal taking of the Black Hills in 1877. In *United States v. Dion*, 476 U.S. 734 (1986), the Court determined that in order to abrogate treaty rights in legislation, Congress must be aware of the conflict between the legislation and the rights, and choose to abrogate. The Court held in that case that Congress had intended the Eagle Protection Act (1940) to abrogate Indian treaty rights to hunt eagles because Congress had included in the statute a provision for Indians to obtain permits to take eagles. Finally, in *Minnesota v. Mille Lacs Band of Chippewa Indians*, 526 U.S. 172 (1999), the Court held that the Chippewas’ treaty rights to hunt and fish on their ceded lands remained intact. Neither a presidential order of 1850 ordering the Chippewas to remove west of the Mississippi River, nor a subsequent treaty, nor Minnesota’s admission to the Union as a state, had abrogated those rights.

In addition, during the post-1978 period the Supreme Court developed the modern doctrine of breach of trust. Under this theory Indian tribes may bring suit for money damages against the United States for breach of federal obligations. In *United States v. Mitchell*, 463 U.S. 206 (1983), the Court determined whether a group of allottees could sue the federal government for damages for mismanagement of the timber resources on their allotments. The Court held that because the federal government controlled virtually every aspect of timber harvesting under federal statutes and regulations, the government had a fiduciary obligation to the allottees that could be enforced in federal court. The *Mitchell* approach was restricted by a pair of breach of trust cases in 2003. In *United States v. Navajo Nation*, 537 U.S. 488, the Court held that the 1938 mineral leasing act did not control all aspects of coal leasing and did not impose any specific duties on the government to ensure a royalty rate greater than the federal minimum. Thus, the Court found that the Navajo Nation could not recover from the federal government its claims of \$600 million in lost coal royalties. In *United States v. White Mountain Apache Tribe*, 537 U.S. 465, however, the Court upheld the tribe's claim for damages against the government for its failure to maintain lands and buildings on the reservation, because the federal government had had actual control over the buildings in question.

Tribal Land Rights

Since 1978 the Court has decided a number of important land rights cases. As noted earlier, in 1980 it held that the federal government's 1877 acquisition of the Black Hills was an unconstitutional taking of property for which the Sioux people were entitled to \$17 million in compensation. In 1987 and again in 1997 the Court struck down versions of the Indian Land Consolidation Act intended to address the problem of fractionation of allotments by returning very small interests to the tribes upon the owner's death, as unconstitutional takings of the landowners' property rights (*Hodel v. Irving*, 481 U.S. 704 [1987]; *Babbitt v. Youpee*, 591 U.S. 234 [1997]).

Several cases addressed the extent of Indian Country. The Court twice considered whether Indian reservations had been diminished when the "surplus" lands left after allotment were sold to non-Indians. The Court held that both the Uintah reservation in Utah and the Yankton Sioux reservation in South Dakota were diminished, and thus that the surplus lands were no longer part of the reservations (*Hagen v. Utah*, 510 U.S. 399 [1994]; *South Dakota v. Yankton*

Sioux Tribe, 522 U.S. 329 [1998]). The case of *Alaska v. Native Village of Venetie*, 522 U.S. 520 (1998), dealt with whether Alaska Native lands, owned in fee under the Alaska Native Claims Settlement Act of 1971, were Indian Country. The Court held that because the lands were not in trust under the superintendence of the federal government, the lands could not be Indian Country. The decision ended the Indian Country status of approximately 1.8 million acres of land.

In addition, the Court decided two major cases concerning the land rights of Indian tribes in the East. In *County of Oneida v. Oneida Indian Nation*, 470 U.S. 226 (1985), the Court held that the Oneida reservation in New York was purchased by the state in a 1795 treaty that violated the Nonintercourse (Trade and Intercourse) Act. As a result, the Oneida Nation still held aboriginal title to the land, and the counties were liable to the tribe for rent for county-owned lands within the original reservation. The Oneida Nation subsequently repurchased some land within its original reservation and argued that the municipality could not collect property taxes on the land because the tribe now held both fee title and aboriginal title. In *City of Sherrill v. Oneida Indian Nation*, 544 U.S. 197 (2005), however, the Court held that the tribe's claims were barred by the passage of time.

Religious Freedom

Since 1978 the Court has decided two important religious freedom cases, in both cases ruling against the Indian parties. In *Lyng v. Northwest Indian Cemetery Protective Association*, 485 U.S. 439 (1988), the United States Forest Service proposed to build a road segment and to authorize logging near an area sacred to several California tribes. Acknowledging that the activities could have "devastating effects" on tribal religious practices, the Court nonetheless held that the federal actions did not violate the free exercise clause of the First Amendment. Two years later, in *Employment Division, Oregon Department of Natural Resources v. Smith*, 494 U.S. 872 (1990), the Court upheld a state law criminalizing the use and possession of peyote. Even though the effect of the law was to make the sacrament of the peyote religion a crime, the Court ruled that federal and state governments could burden the exercise of religion as an incidental effect of neutral laws. The decision in *Smith*, and the near-unanimous criticism by Indian tribes and constitutional law scholars, led Congress to enact the Religious Freedom Restoration Act in 1993.

Conclusion

The decades since 1978 have given rise to substantial changes in the Supreme Court's Indian law jurisprudence. The implicit divestiture doctrine introduced in *Oliphant* in 1978 has subsequently been applied beyond its original criminal law context to tribal regulatory jurisdiction, tribal court authority to hear cases, and tribal authority to tax. Through this line of cases, tribal authority over nonmembers has been substantially diminished, and state authority over nonmembers in Indian Country has correspondingly increased. The Court's record in breach of trust cases is inconsistent, although its recent cases are less likely to find that the federal government has fiduciary obligations to tribes. In addition, the Court has done little to protect the religious freedom of Indians or the land rights of Indian tribes. The vast majority of these cases were decided by the Rehnquist Court, the period from 1986 to 2005 when William Rehnquist served as chief justice, although it appears that the Roberts Court is continuing the same approach to Indian law.

Nonetheless, Indian tribes can point to some victories during the last few decades. Tribal sovereign immunity and tribal treaty rights to hunt and fish have been strongly reaffirmed. State authority to tax tribes and their members in Indian Country is automatically barred without congressional consent, and state attempts to regulate tribal members on reservations were struck down. The record of Indian cases in the Supreme Court since 1978 is thus not entirely one-sided, but it has been heavily weighted against the tribal nations.

See also *Black Hills*; California v. Cabazon Band of Mission Indians (1987); *Crime, Regulating in Indian Country*; *Fishing, Hunting, and Gathering Rights*; *Gaming*; *Government-to-Government Relations*; *Land Claims Settlement Acts*; Lyng v. Northwest Indian Cemetery Protective Association (1988); *Oil and Gas*; *Oliphant v. Suquamish Indian Tribe* (1978); *Religious Freedom*; *Sacred Sites*; Santa Clara Pueblo v. Martinez (1978); Seminole Tribe of Florida v. Florida (1996); *Sovereign Immunity*; *Sovereignty*; *States' Rights*; *Taxation*; *Trade and Intercourse Acts*; *Tribal Courts*; *U.S. Supreme Court and Indian Policy, 1935–1965*; *U.S. Supreme Court and Indian Policy, 1966–1977*.

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BIBLIOGRAPHY

Barker, Joanne. *Sovereignty Matters: Locations of Contestation and Possibility in Indigenous Struggles for Self-Determination*. Lincoln: University of Nebraska Press, 2005.

Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, N.J.: LexisNexis, 2005.

Deloria, Vine, Jr., and David E. Wilkins. *Tribes, Treaties, and Constitutional Tribulations*. Austin: University of Texas Press, 2000.

Duthu, N. Bruce. *American Indians and the Law*. New York: Penguin Group, 2008.

O'Brien, Sharon. *American Indian Tribal Governments*. Norman: University of Oklahoma Press, 1993.

Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.

Prygoski, Philip J. "From Marshall to Marshall: The Supreme Court's Changing Stance on Tribal Sovereignty." *The Compleat Lawyer* 12, no. 4 (Fall 1995).

U.S. War Department

See *War, U.S. Department of*.

Ute War (1879)

The desire of Americans for Ute land and mineral resources provoked several confrontations between the tribe and the United States between 1850 and 1920. Any demonstration of Ute resistance against settler encroachments usually produced rapid retaliation and subsequent demands for cessions by the U.S. government.

The best known episode in Ute-U.S. relations was the Meeker Massacre in western Colorado. Nathan Meeker, an Indian agent, and several reservation workers were killed by a group of White River Utes on September 29, 1879. Meeker had sought to transform the Utes from a tribe centered on hunting to a community of Christian farmers. Meeker failed to understand the Utes, who had been among the earliest Indians to integrate horses into their culture. His decision to plow and sow an area previously dedicated to horse races and grazing provoked a confrontation. Forceful Ute opposition to Meeker's plan, led by Johnson (Canávis), Douglas (Quinkent), and Captain Jack (Nicaagat), persuaded the agent that he needed assistance from the army.

The United States sent troops from Fort Steele, Wyoming, toward the White River reservation. Meeker realized that bringing them to the reservation could provoke fighting. He and the military commander, Major Thomas Thornburgh, thus agreed that only Thornburgh and a small escort should come to White River.

Before that move could be made, some Utes met the whole military force outside the reservation at Milk River. Fighting erupted because of an apparently accidental shot. The Utes, who outnumbered the American forces, killed Thornburgh and several others and pinned down the troops.

Angered by the loss of some warriors at Milk River, Utes at the reservation led by Douglas (Quinkent) killed the American men and seized the women as hostages. Gen. Wesley Merritt brought up a large force and relieved the siege. There was little further fighting, and the Utes freed Mrs. Meeker and the other women, a concession that was facilitated by Ouray, a prominent Ute chief.

Despite the insistence of many whites in Colorado that the Utes be exterminated or removed from the state, Carl Schurz, the secretary of the interior, preserved the Utes' homes temporarily. Meanwhile, he began working on a long-range plan to allot Ute lands. Tensions, however, persisted primarily because of the whites' desire for Ute lands.

Many of the Utes were transferred from Colorado to a reservation in Utah in 1881. Further skirmishes took place between other Ute bands and Americans in Colorado in 1884. Military authorities believed the Utes in Utah remained hostile, and in 1886 Major Frederick Benteen established Fort Richardson to preserve the peace. A new conflict arose in 1887, when a large party of whites attacked a Ute camp on the White River. The Utes began returning to their reservation, but the Colorado militia, after having first negotiated with the Utes, attacked them in Utah.

Between 1906 and 1908 some Utes moved to a Lakota reservation in South Dakota, vowing to fight if they were prevented from leaving Utah. The Ute reservation had been opened to white settlement in 1905, which helped fuel Ute dissatisfaction. The army observed the movements of the Utes, and eventually the Utes, whose presence was unwelcome to the Lakotas, returned to Utah.

Other confrontations occurred before and after the temporary move to South Dakota. The last two such events of some significance occurred in 1915 and 1923. The 1915 episode arose from the murder of a Mexican American by a Ute. A posse that was attempting to capture the murderer clashed with Utes, resulting in deaths on both sides. Army Chief of Staff Hugh L. Scott, who knew the Utes well, persuaded them to surrender. The 1923 incident developed from several minor crimes by two young Utes. They surrendered to the authorities but later escaped. Their escape elicited a disproportional response from local whites. Many Utes were confined in a temporary stockade. Others tried to flee the area because of their fears of the whites. Posey, a Ute leader, who was believed to have been involved with the escape, was wounded and later died as a result. Posey had been highly unpopular with whites owing to his independent stance. The Utes in the area were finally required to settle permanently on their reservation.

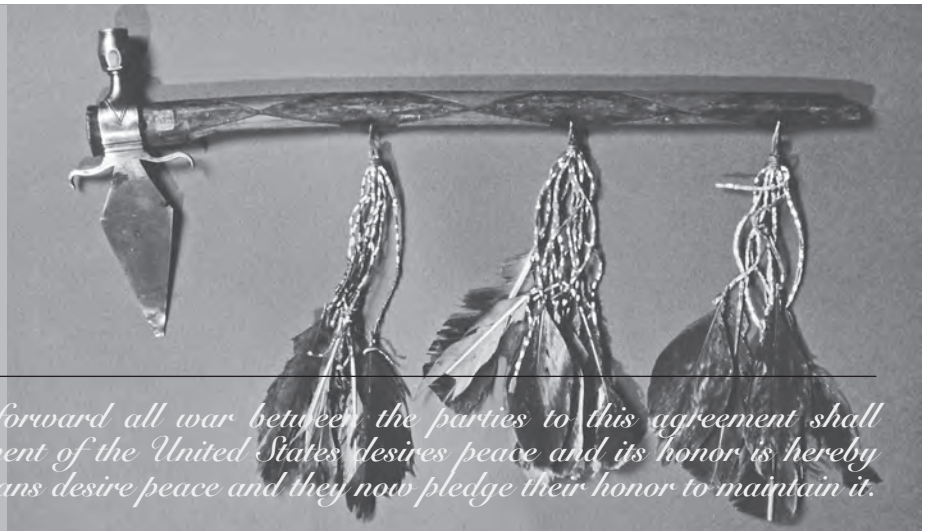
See also *Ouray; Schurz, Carl; United States–Indian Wars (1848–1891).*

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BIBLIOGRAPHY

- Decker, Peter R. *"The Utes Must Go!": American Expansion and the Removal of a People*. Golden, Colo.: Fulcrum, 2004.
- Emmitt, Robert. *The Last War Trail: The Utes and the Settlement of Colorado*. 1954. Reprint, Boulder: University Press of Colorado, 2000.
- Miller, Mark E. *Hollow Victory: The White River Expedition of 1879 and the Battle of Milk Creek*. Niwot: University Press of Colorado, 1997.

V



Article 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they now pledge their honor to maintain it.

Van Buren, Martin

Martin Van Buren (1782–1862), the eighth president of the United States, was born in Kinderhook, New York. His term of office (1837–1841) was shaped by a number of issues, including the financial panic of 1837 and disputes with Great Britain over the U.S.–Canada border. Even though his administration concluded the removal of the Cherokees and other tribes, Van Buren has generally escaped the recent critical scrutiny heaped upon his predecessor, Andrew Jackson (1829–1837), who set the government on the path of relocating the eastern tribes with the Indian Removal Act of 1830.

A lawyer and key figure in the consolidation of the Democratic Party, Van Buren entered the Senate in 1821, later holding office as secretary of state and vice president. He was inaugurated as president in 1837, very much in the shadow of the popular Andrew Jackson, whose policies Van Buren pledged to continue. The democratization of politics, the extension of the vote to a larger class of white men, and the rise of the Whig Party were significant developments during his administration. The Panic of 1837 was the worst economic crisis to affect the country up until that point, plaguing his presidency and lingering through the early 1840s.

Van Buren supported and continued the Indian removal policy instigated by Jackson, who wanted to move all Indian tribes to lands west of the Mississippi River. Van Buren's administration concluded removal treaties with several tribes in the North, including the Miamis, the Winnebagos (Ho-Chunks), Potawatomis, Sacs and Foxes, Chippewas (Anishinabegs), and Dakota Sioux.

Van Buren also oversaw the most notorious chapter of federal removal as approximately sixteen thousand Chero-

kees migrated west during bad weather, losing an estimated four thousand in the ordeal that later became known as the Trail of Tears. Another southeastern tribe earmarked for removal, the Seminoles, offered stiff resistance during Van Buren's tenure. The Seminoles engaged more than five thousand U.S. troops in Florida and fought a protracted defensive war that lasted until 1842. Van Buren defended the government's actions before Congress as an essential and remedial policy that was informed by humanity and kindness. However, the Trail of Tears and the handling of the Seminole war drew heavy criticism from humanitarians, reformers, and the Whig Party.

After losing election for a second term in 1840, Van Buren remained politically active. When he failed to support the call for immediate annexation of Texas in the early 1840s, he alienated himself from Democrats and his hopes of a second term melted away. He campaigned for James Polk in 1844, who went on to win the presidency, but relations between Van Buren and Polk soured. Van Buren became involved in the Free Soil Party, a political splinter group that opposed the extension of slavery into the West. After running on that party's ticket in the 1848 election, Van Buren bowed out of active politics.

See also *Indian Removal Act (1830); Jackson, Andrew; Second Seminole War (1835–1842); Removal; Trail of Tears (1838–1839).*

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BIBLIOGRAPHY

- Remini, Robert. *Martin Van Buren and the Making of the Democratic Party*. New York: Columbia University Press, 1959.
- Satz, Ronald N. *American Indian Policy in the Jacksonian Era*. Norman: University of Oklahoma Press, 2002.

Widmer, Ted, and Arthur Schlesinger. *American Presidents: Martin Van Buren*. New York: Times Books, 2004.

Victorio

Victorio (c. 1825–1880) was a significant Mimbreno (Eastern Chiricahua) Apache leader in the Apache Wars. He led numerous raids against American and Mexican settlements and is best known for his lifelong attempt to secure a suitable homeland for his people.

Victorio belonged to an Apache band known as the *Tchene* or Red Paint People in southern New Mexico. When he was about twelve years old, white scalp hunters attacked his village. Victorio and his sister watched as their entire family was slaughtered. After that day he vowed to dedicate his life to protecting his people.

Victorio fought under the Mimbreno Apache leader Mangas Coloradas and took over leadership of his followers, composed of a number of Apache bands, on Mangas's death. This particular group of Apaches became known as the Warm Springs (*Ojo Caliente*) Apaches.

In 1852 Victorio agreed to keep the peace. Although he was promised food and a reservation, the U.S. government did not uphold the agreement. Victorio kept his word, but after a group of white miners attacked his village a few years later, he and his people disappeared into the mountains and deserts along the border between New Mexico, Texas, and Mexico. From there Victorio conducted raids on settlements on both sides of the border.

In the late 1860s Victorio again promised to end the attacks and move to a reservation if it were located at Warm Springs in their homeland. Instead, the U.S. government placed them at San Carlos reservation in Arizona where Victorio's people had a number of enemies, including the (Western) Chiricahua Apaches. In 1877 Victorio and about eighty of his followers fled the reservation, moved into the Mimbres Mountains, and renewed their raids.

In 1879 Victorio once again pledged to keep the peace in exchange for a reservation at Warm Springs. He reluctantly agreed to settle on the Mescalero reservation, but he then was arrested for an old charge of murder and horse stealing. In September of that year, Victorio, many of his followers, and a number of Mescaleros fled the reservation and resumed attacks on settlements on both sides of the border. The United States and Mexico both assigned forces to subdue and capture Victorio and his band. On October 15, 1880, Victorio and his followers were attempting to escape a

U.S. military contingent when they were attacked by an army of Mexicans and Tarahumara Indians at Three Peaks (Tres Castillos). The Mexican forces killed about 80 Apaches; Victoria was among the dead. According to some survivors, he took his own life rather than be killed or captured.

See also *Apache Wars (1860–1886)*; *Buffalo Soldiers*; *Mangas Coloradas*; *United States–Indian Wars (1848–1891)*.

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BIBLIOGRAPHY

Boye, Alan. *Tales from the Journey of the Dead*. Lincoln: University of Nebraska, 2006.

Thrapp, Dan L. *The Conquest of Apacheria and his Victorio and the Mimbres Apaches*. Norman: University of Oklahoma, 1964.

———. *Victorio and the Mimbres Apache*. Norman: University of Oklahoma, 1967.

Virginia, Indian Policy of

Indian policy in Virginia can perhaps best be viewed in four stages: the Virginia Company Era (1607–1624); the Royal Colony era (1624–1776); the Commonwealth Era of Segregation and Eugenics (1776–1980); and the State Recognition Era (1980–2008). In the eastern third of the state, where historic population data exist, the Virginia Indian population was about 14,000 at the time of European settlement in 1607, falling to less than 2,000 by 1700, and to several hundred in 1790. The 2000 federal census counted approximately 21,000 Indians in Virginia, of whom approximately 3,000 are descendants of the indigenous tribes. Virginia Indian policy has been affected by who was considered an Indian, as racial definitions and on-reservation versus off-reservation status have often been taken into consideration.

The Virginia Company, which established Jamestown in 1607, was a private commercial venture. The earliest Indian policy at Jamestown encouraged trade with the neighboring tribes of the Powhatan Chiefdom as a means to promote peaceful relations. Following the near failure of the colony in 1610, the Virginia Company instituted a policy of separation from Indians and the taking of land for new settlements engaged in the emerging tobacco market.

King James I established Virginia as a royal colony in 1624. In that year the General Assembly declared a prohibition on trading with the Natives for corn and called on the elimination of Indians through warfare, forced education and adoption, and eviction. Movement of Indians into what had

already become predominantly English territory was restricted. Indian policy was increasingly negotiated on a tribe-by-tribe basis as the regional indigenous political order of the Powhatans had been destroyed.

Treaties made in 1646 and 1677 marked the transformation of Virginia Indians to the status of tributary subjects of the King of England. Under the terms of these treaties, reservation lands were set aside for some Indian tribes. Two of these reservations (Pamunkey and Mattaponi) survive to the present day and are thus among the oldest in the United States. Marriage between whites and Indians was outlawed in 1691. A decade later a new set of laws passed that preserved the sanctity of Virginia Indian reservations and prevented anyone, including Indians, from selling off these lands. In practice, however, these rights were easily dismissed by colonial courts and much reservation land was taken. Off-reservation Indians, which then included most Virginia Indians, were considered “free persons of color,” and their identity began to blur with African Americans in central and eastern Virginia. These now self-identifying Indians were prohibited from hunting and fishing on land owned by English settlers and were denied other common rights, including serving as a witness in court or holding public office. To the far west, Shawnee and Cherokee Indians lived in Virginia territory but were increasingly pushed west by the regional treaties of the mid-eighteenth century. In 1865 the Code of Virginia declared that “Every person having one-fourth or more of negro blood shall be deemed a colored person, and every person not a colored person having one-fourth or more of Indian blood shall be deemed an Indian.”

Several decades later, the Racial Integrity Act of 1924 was enacted to enforce eugenics-based social policy intended to all but eliminate the category of Indian from Virginia. The act declared that anyone with one-sixteenth or more of “Negro blood” was to be considered “colored.” Virginia’s Bureau of Vital Statistics conducted a two-decade-long effort, using surnames, genealogies, and gossip to reclassify almost all Indians across the state as “colored.” To identify as Indian, non-reservation Indians had to prove they did not intermarry with African Americans or did not have any African American ancestry. The state bureaucracy determined an individual’s identity, changing birth certificates and marriage records in some cases to “correct” the category of Indian where it had earlier been accepted. Reservation Indians also had to prove they had less than one-sixteenth Negro blood. The impact of the Racial Integrity Act continues to be felt into the twenty-first century, as the doubt

placed into the public mind as to the “real” identity of individuals and communities long identified as Indians has persisted. It also impacted efforts to achieve federal recognition, as the continuity of Indian identity as individuals and communities had been altered officially by the state.

The post-Civil Rights Act era opened the door to state recognition for non-reservation Indian tribes in Virginia. By 1989 a total of eight Indian communities were recognized as tribes by the state. State policy requires that a community retain a specifically Indian identity through time, tracing back to the period of first European contact; provide a genealogy; and show that the group has retained a social identity by organizing (historically or in the present) separate schools, churches, or political organizations. The tribe must also provide evidence of current organization with formal tribal rolls.

The Virginia Commission on Indians (now called the Virginia Council on Indians) was created in 1983 to serve as an advisory council for Virginia’s Indians in the executive branch of state government. The Council is composed of the chiefs of the recognized tribes, two members appointed at large by the governor from the Indian population residing in Virginia, and one nonvoting member appointed by the governor who is a senior member of his staff. Benefits of state recognition are largely realized in being part of a collective voice that represents Indian issues to the governor and General Assembly, and in being able to comment formally on issues relating to cultural patrimony, repatriation, and the representation of Indian history and culture in state- and federally funded museums, curricula, and other media. The Virginia General Assembly passed an act in 1997 that allowed Virginia Indians whose birth certificates and marriage licenses had been changed by the state without their knowledge to be able to restore Indian identity on historic vital records. As of mid-2008, the six state-recognized, non-reservation tribes were collaboratively pursuing federal recognition via the congressional administrative process.

In 2007 the General Assembly passed this policy statement of tribal relations: “The Commonwealth of Virginia recognizes the continuous contributions of the Indian tribal nations to the Commonwealth’s history and culture and hereby reaffirms the spirit and intent of the original treaties between the Tribes and the British Crown in 1646 and 1677 and shall operate, to the extent permitted by the United States Constitution, in accordance with that spirit and intent when dealing with such Virginia tribes as may be officially recognized by the Commonwealth.” (2.2-2629.2.)

See also *Blood Quantum*; *Civilization Program*; *Great Britain, Indian Policy of*; *Race and Racial Thinking*; *Reservations*; *Tribal Citizenship*; *Tribal Acknowledgment (Federal)*; *Tribal Acknowledgment (State)*.

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BIBLIOGRAPHY

- Craven, Wesley. "Indian Policy in Early Virginia." *The William and Mary Quarterly*, Third Series 1, no. 1 (1944): 65–82.
- Feest, Christian. *The Powhatan Tribes*. New York: Chelsea House Publishers, 1990.
- Gonzales, Angela, Judy Kertesz, and Gabrielle Tayac. "Eugenics as Indian Removal: Sociohistorical Processes and the De(con)struction of American Indians in the Southeast." *The Public Historian* 29 (2007): 53–67.
- Horn, James. *A Land As God Made It: Jamestown and the Birth of America*. New York: Basic Books, 2005.
- Rountree, Helen. *Pocahontas's People: The Powhatan Indians through Four Centuries*. Norman: University of Oklahoma Press, 1990.

Voting Rights

Fifty-four years after the Fifteenth Amendment granted all U.S. citizens, regardless of race, color, or previous condition of servitude, the right to vote, the Citizenship Act of 1924 provided U.S. citizenship to all Indians who were not already citizens by other prior acts, such as military service in World War I or their acceptance of an allotment under the General Allotment Act of 1877 (Dawes Act). The Citizenship Act also gave Native Americans new legal protections. Historically, Indians de facto have been prevented from participating in elections and were among the last group of people to secure the right to participate in federal, state, and local elections. Instead, Indians were treated in a fashion similar to that of disenfranchised African Americans in the pre-Civil Rights Act South.

State governments questioned whether Indians could be loyal Americans given their fidelity to their tribal governments. In 1937, in direct violation of the Citizenship Act, Colorado denied voting rights to Indians claiming that they were not yet citizens. In Minnesota, the state supreme court required that voters be "civilized" before they could vote. Tribal Indians, the justices explained, might demonstrate their eligibility "by taking up [their] abode outside the reservation and there pursuing the customs and habits of civilization."

Vote dilution was also an ongoing struggle in Indian Country. Many of the same barriers that kept southern blacks from the polls also kept Indians from voting. Moreover, because of Indians' unique political status, Indians living on reservations encountered additional and unique obstacles. For example, some states, aware of treaty rights that exempt trib-

al lands and members from most state regulations and taxation, coupled with language in some state constitutions specifying that state governments cannot extend their jurisdiction or taxing authority over Indians or inside Indian Country, erroneously concluded that they had the authority to exclude Indians from the political process. In Arizona, for example, it was not until 1948 that the state supreme court struck down a provision of the state constitution that denied Indians the right to vote because they were "under guardianship."

In 1965, in hopes of correcting voter disenfranchisement primarily of African Americans in the South, President Lyndon B. Johnson signed into law the Voting Rights Act of 1965 (VRA). The VRA strengthened the Fifteenth Amendment by prohibiting any individual action or enactment of an election law that denies or abridges voting rights on account of race or color. It also temporarily suspended literacy tests nationwide and required certain states to obtain "pre-clearance" for new voting practices and procedures from the U.S. Department of Justice. The VRA assigned federal examiners to list qualified applicants to vote and serve as poll watchers and authorized the U.S. attorney general to institute civil actions to enforce the act. At the time of its passage, the VRA was considered the most effective civil rights legislation ever enacted.

The VRA, however, did not prevent state governments from trying to inhibit Indian voting. In Arizona, state lawmakers in the early 1980s attempted to create an all-Indian county, a proposal one state senator called the "Arizona Apartheid Act." In *Windy Boy v. County of Big Horn* (1986), Montana was found to have committed "official acts of discrimination [that] have interfered with the rights of Indian citizens to register and vote" in the form of an at-large voting scheme that denied the plaintiffs' right to participate in elections and to elect representatives of their choice to county and school board offices. In *Bone Shirt v. Hazeltine* (2002), the Eighth Circuit Court of Appeals affirmed a court-ordered redrawing of legislative district lines in South Dakota to ensure there was no discrimination against Native American voters. The lower court had ruled that South Dakota violated the VRA when it approved a statewide redistricting plan that diluted the voting power of Indians in that state.

The Voting Rights Act has been amended many times, and in 2006 it was extended for 25 years. During the 2006 reauthorization debate, advocates of Indian voting rights were particularly interested in extending the requirements for Justice Department "pre-clearance" and the section that

ensures that no citizen would be denied the right to vote because of lack of fluency in English (section 203).

Because of the close and contentious nature of some elections involving states with large Indian populations, many pro-tribal organizations and Indian and minority voting rights advocates have organized voter protection programs on Indian reservations during federal elections. Other organizations have been active in bringing VRA violation cases on behalf of tribal clients—the American Civil Liberties Union, for example, initiated the *Bone Shirt v. Hazeltine* litigation.

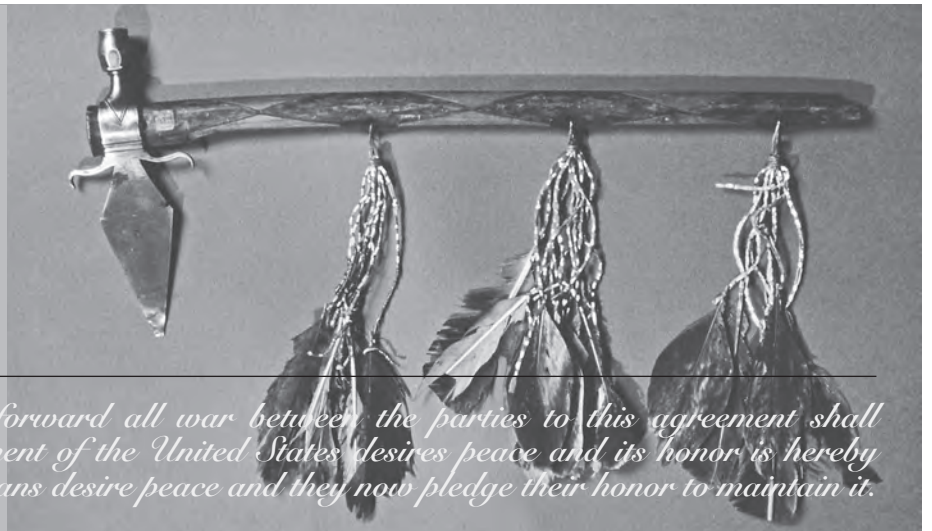
See also *Citizenship: United States and State; Indian Citizenship Act (1924)*.

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BIBLIOGRAPHY

- Indian Citizenship Act, 8 U.S.C. 1401 (1924).
Elk v. Wilkins, 112 U.S. 94 (1884).
 Jackson, Danna R. “Eighty Years of Indian Voting: A Call to Protect Indian Voting Rights.” *Montana Law Review* 65 (Summer 2004): 269–276.
 Phelps, Glenn A. “Mr. Gerry Goes to Arizona: Electoral Geography and Voting Rights.” *American Indian Culture and Research Journal* 15 (1991): 63–92.
 Voting Rights Act, 42 U.S.C. (1973).
 Voting Rights Act Amendments of 1970, Pub.L. No. 91-285, 84 Stat. 314 (1970); An Act to amend the Voting Rights Act of 1965, Pub.L. No. 94-73, 89 Stat. 400 (1975); An Act to Amend the Voting Rights Act of 1965, Pub.L. No. 97-205, 96 Stat. 131 (1982).
 Wilkins, David. “An Inquiry into Indigenous Political Participations: Implications for Tribal Sovereignty.” *Kansas Journal of Law and Public Policy* 9 (2000): 732–749.

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Article 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they now pledge their honor to maintain it.

War, U.S. Department of

The U.S. War Department was formally responsible for U.S.-Indian relations from the beginning of the nation until the responsibility was transferred to the newly established Department of the Interior in 1849. After the transfer, the War Department was responsible for fighting wars against the Indian nations and for removing Indians to, and maintaining them on, reservations.

The Knox Era

The Second Continental Congress created the War Department in February 1781 as its administrative liaison to the U.S. Army. The department began to assume jurisdiction over federal Indian relations during the secretaryship of Henry Knox (1785–1794), whose chief responsibility during the first years of his term was the administration of the small peacetime army on the Ohio frontier. This task necessarily brought the department into frequent, if indirect, contact with the Trans-Appalachian Indians, whose lands the army was supposed to protect from white squatters and whose treaties with the United States it was supposed to enforce. Iroquois and Northwest Indian men and women frequently visited or traded at the army's forts on the Ohio River, and Native American leaders seeking rapprochement with the United States delivered speeches and wampum belts to these forts' commanders, who forwarded those communications to Secretary Knox. As he became Congress's de facto liaison to many of the Northwest Indians, as well as the supervisor of officers who served as de facto Indian agents on the northern frontier, Knox increasingly came to see himself as a maker and administrator of Indian policy, and his reports

to Congress began to include the secretary's official advice on that subject.

The Continental Congress accepted some of Knox's recommendations, chief among them a 1787 proposal that the United States renegotiate its postwar treaties with the Northwest Indians and pay them for prior land cessions. However, Congress also divided responsibility for Indian affairs between the War Department and other administrative entities. It vested responsibility for day-to-day Indian relations in two Indian superintendents, whose offices Congress created in its 1786 Ordinance for the Regulation of Indian Affairs, and assigned the task of negotiating a new Northwest Indian treaty to the new governor of the Northwest Territory, Arthur St. Clair. This equivocal state of affairs would persist for several decades after ratification of the U.S. Constitution. The new federal Congress made territorial governors the superintendents of Indian affairs (and of Indian agents) within their local jurisdictions, while the new president, George Washington, made the War Department the center of national Indian policy making.

President Washington chose to retain Henry Knox, who had been his chief artilleryman during the Revolutionary War (1775–1783) and a trusted confidant thereafter, as secretary of war following his 1789 inauguration. Both Washington and the new federal Congress relied heavily on Knox for advice on Indian policy, and they accepted and enacted his proposals that the U.S. government monopolize Indian land sales and distribute agricultural hardware to Native American treaty signatories (the beginnings of the federal civilization program). The War Department increased its hold on Indian policy when the U.S. government went to war with the Northwest Indian confederation (1790–1794),

during which time Knox helped organize the early offensives, attempted to negotiate with the Indian confederation's leaders (after the disastrous defeat of U.S. troops under Arthur St. Clair on November 4, 1791), and took charge of raising and supplying the replacement army under Anthony Wayne, which finally defeated the allied Northwest tribes at the Battle of Fallen Timbers (August 20, 1794).

Building the Indian Relations Bureaucracy

Knox had established the War Department as the principal arbiter of Indian policy. His successors would begin turning it into the bureaucratic headquarters of the U.S. government's informally organized Indian department. By the mid-1790s the secretary of war was responsible for providing many of the Trans-Appalachian Indian nations with gifts, supplies, and annuity payments, pursuant to the treaties and land-cession agreements that those nations had signed with the U.S. government. The War Department also played an important role in the western fur trade. In 1796, on the advice of President Washington, Congress authorized the creation of a network of public fur-trading posts, or factories, whose salaried agents received their instructions from and remitted their furs and skins to the secretary of war. By 1806 this network had grown to ten trading factories with nearly twenty employees and \$300,000 in capital. In that same year Congress, recognizing the growing size and scope of the factory system, created a separate Office of Indian Trade, headed by a superintendent, to oversee its affairs. The superintendent of Indian Trade in 1811 assumed responsibility for the distribution of gifts and annuity goods to Indian treaty signatories. This office constituted the first attempt to create a separate civilian Indian service within the War Department.

In 1813 U.S. forces put down Tecumseh's Nativist confederation of tribes. One year later, American troops under Andrew Jackson quashed the Red Stick Creek rebellion at the Battle of Horseshoe Bend. These two events effectively ended the prospect of a powerful unified Native military resistance east of the Mississippi River. After the War of 1812, secretaries of war William Crawford (1815–1816) and John C. Calhoun (1817–1825) presided over federal efforts to dispossess peacefully the Woodland Indians of their remaining lands and to encourage them to migrate voluntarily to the Trans-Mississippi West. In an address to Congress on December 5, 1818, Calhoun spoke about the Woodland Indians and, in effect, the U.S. government's postwar Indian policy: "The time seems to have come when our policy

toward them should undergo an important change. They neither are, in fact, nor ought to be, considered as independent nations. Our views of their interest . . . ought to govern them." During the five years following the ratification of the Treaty of Ghent (1814) that ended the War of 1812, Crawford and then Calhoun nominated and instructed federal commissioners who would negotiate more than twenty-five land-cession treaties with the Trans-Appalachian Indians. To speed the assimilation of those Indians who did not emigrate to the west, Calhoun joined with Superintendent of Indian Trade Thomas L. McKenney in proposing that Congress appropriate funds for Indian schools, where missionaries could instruct Native American children in literacy and agriculture. When Congress, in the Civilization Act of 1819, subsequently appropriated \$10,000 per annum for this purpose, President James Monroe gave Calhoun responsibility for reviewing applications from mission societies and disbursing monies from the civilization fund.

Calhoun, in turn, devolved that responsibility upon his former associate and ally Thomas McKenney. McKenney had helped Secretary Calhoun organize the Indian affairs of the unruly and chaotic War Department, and he had organized a petition drive by missionary societies that helped convince Congress to pass the Civilization Act. In 1822 Congress, under pressure from western fur traders and territorial governors, voted to eliminate the Office of Indian Trade, shutter the remaining factories, and cashier Superintendent McKenney. John Calhoun, however, remembered the administrative services that McKenney had rendered him, and in 1824 the secretary created within the War Department a new Office of Indian Affairs (OIA), composed of a superintendent of Indian affairs (McKenney) and two clerks. The superintendent would manage the distribution of annuities to Indian treaty signatories and the disbursement of education funds appropriated under the Civilization Act. He would have no statutory authority, however, until July 9, 1832, when Congress, acting on the advice of Lewis Cass and William Clark, formally created the office of Commissioner of Indian Affairs within the War Department.

Removal to Transfer

The department was, by that time, dramatically increasing its already considerable involvement with Indian affairs, thanks to the passage of the Indian Removal Act on May 28, 1830. After serious and deadly complications impeded the emigration of the Choctaws (1830–1833), Secretary of War Lewis

Cass ordered the army to take charge of future removals. Cass gave the commissary general overall responsibility for organizing and supplying Indian emigrant parties, appointed senior army officers as removal agents, directed junior officers to escort emigrant parties to their new territories, and authorized the construction of roads and the caching of supplies for the removed Indians. The army also played a less pacific role in removal, forcibly expelling the Creeks from Alabama (1836–1837), the Cherokees from Georgia and Tennessee (1838–1839), and the Seminoles from Florida—in the last case, by committing thirty thousand soldiers to a six-year, \$20 million military campaign against anti-removal Seminoles.

During the removal era, the War Department solidified its control of routine Indian affairs. Congress passed an Indian Service Reorganization Act (June 30, 1834), which formally organized the Office of Indian Affairs, placed the War Department in charge of all Indian agents and subagents, and terminated territorial governors' Indian superintendencies. By the end of the decade the secretary of war and the commissioner of Indian affairs had amassed immense and undivided authority over Native Americans' lives, thanks to their control of agents, annuities, and education funds. Not surprisingly, some commissioners abused or otherwise proved unequal to that authority. President Andrew Jackson removed one commissioner, Elbert Herring (1831–1836), for incompetence. Herring's successor, Carey Harris (1836–1838), became involved in corrupt land-speculation schemes and was sacked by President Martin Van Buren.

In the 1840s American policy makers discussed moving the Office of Indian Affairs from the War Department to a new civilian administrative unit. This was not a new proposal. In 1816 William Crawford and other cabinet secretaries had proposed the creation of a home department in charge of Indian affairs, territorial governance, and the patent and post offices. The idea gained new currency after the U.S.-Mexican War (1848) pushed the United States' western boundary to the Pacific Ocean, leaving most of the nation's Indian population in the interior of the United States, instead of on the frontier. When on March 3, 1849, Congress authorized the creation of a new federal Department of the Interior, it made sense for the government to relocate the Indian Office from the War Department (traditionally responsible for controlling the frontiers) to Interior.

Congress would reconsider this decision fifteen years later, when, in the wake of the Sand Creek Massacre (November 29, 1864), American philanthropists demanded a comprehensive reform of the Office of Indian Affairs. Some

reformers recommended moving the office back to the War Department, a proposal considered by the Doolittle Committee. One advocate of returning the Indian Office to the War Department was Ely Parker, the future commissioner of Indian Affairs (1869–1871), who drafted a bill to effect the move, though Congress did not pass it. Parker went on to recommend, in an 1867 report to Gen. Ulysses S. Grant, that the Indian Office replace civilian Indian agents with army officers, but an 1870 law prohibiting the appointment of active-duty officers as Indian agents put an end to this proposal.

The War Department would, however, continue to play a considerable role in federal Indian relations for the next few decades. The U.S. Army maintained on the principal overland trails several forts, which, until the 1870s, served as Indian trading and treaty sites. Senior army officers served on the Indian Peace Commission, which Congress authorized in 1867 and that negotiated peace treaties and reservation agreements with Plains Indians nations. The army also served as the hammer of the federal government's post-Civil War Indian policy, conducting a series of destructive military campaigns against Native Americans who repudiated or refused to sign treaties confining them to reservations, such as the Dakotas (1862), the Lakotas and Northern Cheyennes (1866–1876), the Modocs (1872–1873), and the Kiowas and Comanches (1874–1875).

See also *Black Hills*; *Bureau of Indian Affairs (BIA)*; *Calhoun, John C.*; *Cass, Lewis*; *Civilization Program*; *Clark, William*; *Commissioner of Indian Affairs*; *Creek Civil War (1813–1814)*; *Factory System*; *Ghent (1814)*; *Treaty of*; *Grant, Ulysses S.*; *Herring, Elbert*; *Indian Peace Commission*; *Indian Policy of the Continental Congress*; *Indian Removal Act (1830)*; *Interior, U.S. Department of the*; *McKenney, Thomas L.*; *Modoc War (1872–1873)*; *Monroe, James*; *Northwest Ordinance*; *Parker, Ely S.*; *Red River War (1874–1875)*; *Removal*; *Reservations*; *Sand Creek Massacre (1864)*; *Second Seminole War (1835–1842)*; *St. Clair, Arthur*; *Tecumseh*; *United States–Dakota War of 1862*; *U.S.-Mexican War (1846–1848)*; *War of 1812 (1812–1814)*; *Washington, George*; *Wayne, Anthony*.

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BIBLIOGRAPHY

- Calhoun, John C. "Report to Congress, 5 December 1818." In *Documents of United States Indian Policy*, 3rd ed., edited by Francis Paul Prucha, 31–32. Lincoln: University of Nebraska Press, 2000.
- Horsman, Reginald. *Expansion and American Indian Policy, 1783–1812*. 1967. Reprint, Norman: University of Oklahoma Press, 1992.
- Kvasnicka, Robert M., and Herman J. Viola, eds. *The Commissioners of Indian Affairs, 1824–1977*. Lincoln: University of Nebraska Press, 1979.

- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Prucha, Francis Paul, ed. *Documents of United States Indian Policy*. 3rd ed. Lincoln: University of Nebraska Press, 2000.
- Satz, Ronald. *American Indian Policy in the Jacksonian Era*. Lincoln: University of Nebraska Press, 1975.
- Wallace, Anthony F. C. *The Long, Bitter Trail: Andrew Jackson and the Indians*. New York: Hill and Wang, 1993.
- Ward, Harry M. *The Department of War, 1781–1785*. Pittsburgh: University of Pittsburgh Press, 1962.
- White, Leonard D. *The Jeffersonians: A Study in Administrative History, 1801–1829*. New York: Macmillan, 1951.

War of 1812 (1812–1814)

The War of 1812 was fought between the United States and Great Britain. Conflict began when the United States formally declared war on Great Britain on June 18, 1812, and officially ended on December 24, 1814, with the conclusion of the Treaty of Ghent. The War of 1812 involved American Indians on both the British and American sides, and preexisting conflicts between the United States and American Indian communities became subsumed within the war after it began, ushering in tremendous changes after its settlement.

In most accounts of the origins of the war, the disagreements between the American and British governments over maritime issues loom largest. During the Napoleonic Wars, the British government increased its practice of impressing American sailors into the Royal Navy and seizing American merchant ships. American leaders believed that these policies violated international law, impeded American commerce, and humiliated national honor. The United States' relations with the Indian nations were also a contributing factor to the tension that led to the war as Americans living in the western states and settlements blamed the British government for fomenting unrest among the American Indian nations situated within or near the borders of the United States.

Indian Relations and the War of 1812

Two developments were particularly troublesome for the Americans: the old Northwest pan-Indian resistance movement under the leadership of Shawnee brothers Tecumseh and Tenskwatawa, and a similar movement among the Creek Indians (known as the Red Sticks) in the Southeast. Tecumseh and Tenskwatawa began their movement in 1805, as Tenskwatawa (also known as “the Shawnee Prophet”) preached the need for all Indians to reject all aspects of European culture, including the use of European goods, the consumption of alcohol, and the practice of Christianity.

Tecumseh added to his brother's message by building a military alliance that could halt American expansion and even push the settler population back to the east.

Tecumseh led the resistance to the Treaty of Fort Wayne (1809), negotiated by William Henry Harrison with various Ohio Valley Indian leaders, which had ceded to the United States almost all of what would become the state of Indiana. Tecumseh met directly with Harrison several times to try to overturn the treaty, but Harrison's intransigence against revising or revoking the treaty convinced the Shawnee leader that armed resistance against the United States was necessary.

While Tecumseh was away to recruit Creek and Cherokee Indians to the movement, Harrison marched on Prophetstown, a settlement of five hundred of the Prophet's followers from the Ohio Valley, on the night of November 6, 1811, and defeated Tenskwatawa's forces during the Battle of Tippecanoe. Open warfare now existed between the United States and Tecumseh's alliance, and when the United States formally declared war on Great Britain in June 1812, Tecumseh sought and received arms, ammunition, and assistance from the British forces in Canada.

The incitement of the Indians in the Northwest Territory was one of several grievances that President James Madison listed against Great Britain in a message to Congress on June 1, 1812. Within days, the House of Representatives and the Senate approved a declaration of war, and Madison signed the war bill into law on June 18.

U.S. Invasion of Canada

The small size of the U.S. Navy versus the larger British navy convinced the Americans that a land war would be more tenable. U.S. leaders focused attention on the conquest of Canada, a strategy they believed favored Americans because only a half million British subjects lived in Canada compared with the roughly 7.5 million inhabitants in the United States. The United States also believed that the bulk of the population in Canada would favor an American invasion, as the French Canadians in Lower Canada (Quebec) would want to be free of British rule, and because many of the settlers in Upper Canada (Ontario) were recent émigrés from the United States, they would also welcome the American conquest. Neither assumption proved to be true.

Nonetheless, American forces in 1812 attempted three invasions of Canada, all of which were repulsed, including when General William Hull led an army of about twenty-five hundred mostly militia soldiers across the Detroit River

into Canada and held a conference at Brownstown with many Indian leaders, none of whom agreed to support him. Within a month, Tecumseh (who had not attended the Brownstown conference) openly sided with the British, and his forces began to attack and harass American supply lines. Hull retreated to Detroit by mid-August and surrendered Detroit without a fight to a numerically inferior force under British general Isaac Brock. This victory by Brock, combined with an earlier British seizure of Mackinac Island, convinced many Indians to join Tecumseh and fight with the British.

Stalemate in the West

The 1813 campaign in the Northwestern theater marked sophisticated collaboration between American Indian and British forces as well as a campaign defined by stalemate, as both sides repulsed invasions by the other. The contest pitted the forces of British colonel Henry Procter and Tecumseh against Americans under Gen. William Henry Harrison. In January 1813, Harrison led an army of about three thousand regulars and militia to retake Detroit. Procter and Tecumseh's British and Indian forces defeated a detachment of Harrison's troops under James Winchester at the Battle of Frenchtown on the Raisin River on January 22, 1813. Procter's British forces suffered many casualties in the victory, however, and he left an Indian force to guard about thirty wounded prisoners. These guards failed to stop several drunken Indians from attacking and killing the prisoners, an incident that became known as the River Raisin Massacre. Procter's victory won him a promotion to general, but his attacks with Tecumseh on the American garrison at Fort Meigs on the Maumee River (at present-day Perrysville, Ohio) and on Fort Stephenson on the Sandusky River failed.

An American naval victory by Oliver Hazard Perry at the Battle of Lake Erie on September 10, 1813, opened the lake to American naval traffic, and with fresh supplies, Harrison could once more go on the attack. Procter, realizing the significance of the Battle of Lake Erie, began a retreat from his garrison at Fort Malden (on the Canadian side of the Detroit River), but his plans angered Tecumseh. After arguments between the two at a war council on September 18, it was agreed that the nine hundred British forces and fifteen hundred Indian confederacy warriors would retreat from Detroit and Fort Malden to make a stand deeper inside Canada at the Thames River. Harrison went in pursuit with a force more than twice the size of Procter and Tecumseh's, including fifteen hundred Kentucky militia under Col. Richard M. Johnson. After some skirmishes, the American and British

forces engaged on October 5, 1813, along the Thames at Moraviantown (near modern Chatham, Ontario). Low on supplies and ammunition, the British and Indian Confederacy forces were routed fairly easily. Tipping the battle was Johnson's cavalry charge that resulted in the death of Tecumseh (Johnson would be identified in years to come as the man who had killed Tecumseh), which led to the collapse of the pan-Indian confederacy.

The Red Stick War

Conflict broke out between the United States and American Indian forces in the South with the Creek Civil War (also known as the Red Stick War). Tensions within Creek Indian society between the Red Sticks (named for the red war clubs some adherents wielded) and an elite accommodationist leadership that had embraced western agriculture and commerce boiled over into a civil war early in 1813. The interception and attack on Red Stick forces returning from Spanish Pensacola by an American border patrol at Burnt Corn Creek led to a Red Stick retaliatory attack on an Alabama settlement of whites, mixed-race Creeks, and African American slaves. In the Fort Mims massacre of August 30, 1813, the Red Sticks killed nearly five hundred American settlers and friendly Creeks. The United States launched a campaign against the Red Sticks with a force composed mostly of Tennessee militia in addition to volunteers from other states, Cherokee Indians under Major Ridge, and fighters from other tribes in the Southeast under Col. Andrew Jackson. Jackson's forces fought a series of battles, including the American victories at Tallushatchee and Talladega, with the Red Sticks in the autumn of 1813 and winter of 1814, pushing them southward. The final confrontation was the Battle of Horseshoe Bend on March 27, 1814, at a curve in the Tallapoosa River, an overwhelming victory for Jackson and the United States that broke the Red Stick resistance.

The War Draws to a Close

During the campaigns of 1814, Great Britain attempted to counter American gains during the previous year. Freed briefly from fighting Napoleon after his first capitulation, Britain sent the Royal Navy in a campaign against the United States. British forces burned the capital city of Washington, D.C., in August 1814 but were repulsed from an attack on the better-defended city of Baltimore the next month. The British turned back another American invasion across Niagara at the Battle of Lundy's Lane in July 1814, but

the Americans stopped a British invasion via Lake Champlain at the Battle of Plattsburgh on September 11, 1814. In the south, the British attempt to take New Orleans was halted by Andrew Jackson's forces on January 8, 1815. Jackson's victory came after the formal peace had been concluded at the Treaty of Ghent on December 24, 1814. However, fighting had continued into the early months of 1815 until word of the peace reached North America and ships at sea.

The peace returned Anglo-American affairs generally to the status quo ante bellum. However, for the American Indian peoples of eastern North America, the Treaty of Ghent was momentous. A proposal by British diplomat Henry Goulburn to create an autonomous Indian buffer state in the Great Lakes basin was rejected by the Americans. With the British government formally and finally renouncing any further aid or assistance to Indians within U.S. borders, the Indian nations of the east lost the ability to resist the Americans' westward expansion.

See also *Creek Civil War (1813–1814); Ghent (1814), Treaty of; Great Britain, Indian Policy of; Harrison, William Henry; Jackson, Andrew; Johnson, Richard M.; Madison, James; Tecumseh; Tenskwatawa; U.S. Indian Policy: Congress and the Executive, 1803–1848.*

Leonard J. Sadosky

BIBLIOGRAPHY

- Hickey, Donald R. *The War of 1812: A Forgotten Conflict*. Urbana, Ill.: University of Illinois Press, 1989.
- Horsman, Reginald. *The War of 1812*. New York: Knopf, 1969.
- Remini, Robert V. *Andrew Jackson and His Indian Wars*. New York: Viking, 2001.
- White, Richard. *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650–1815*. Cambridge, U.K.: Cambridge University Press, 1991.
- Zuehlke, Mark. *For Honour's Sake: The War of 1812 and the Brokering of an Uneasy Peace*. Toronto: Knopf Canada, 2006.

Ward, Nancy

Nancy Ward (c. 1738–c. 1822) led the women's council of the Cherokees during the first half century of white settlement in Tennessee. She helped to lessen Cherokee land losses by advocating for peace and by promoting the racial equality of Cherokees and whites.

Born into the Wolf Clan, Ward was named a War Woman after fighting in a decisive battle against the Creeks in 1755. Ward was the maternal niece of Attakullakulla and Willenewaw, important Cherokee diplomats. She was married to trader Bryan Ward from about 1755 to 1763. She

was also named as a Beloved Woman, a title of great distinction among her people. Her position and clan relations enabled her to exert important diplomatic influence for the Cherokees.

Ward remained in the Upper Cherokee Towns when the Chickamaugas withdrew to fight trespassing white settlers in 1776. In an effort to preserve Cherokee ancestral lands and to encourage trade, she worked with Martin to foster peace and good trade relations with the settlers. Ward spoke publicly on behalf of the Cherokees to federal and state peace commissioners in 1781 and helped spare her tribe from land cessions at the time. In 1782 she brokered a prisoner exchange with Governor Benjamin Harrison of Virginia. She also spoke for the Cherokees at the Treaty of Hopewell in 1785.

In 1817 she presented a petition opposing land cessions from leading Cherokee women to the Cherokee National Council. As late as 1819, Indian agent Reuben Lewis recognized Ward as the most influential person in the Cherokee Nation.

See also *Attakullakulla (Little Carpenter); Dragging Canoe; Hopewell (1785–1786), Treaties of.*

Cynthia Cumfer

BIBLIOGRAPHY

- Cumfer, Cynthia. "Nan-ye-hi/Nancy Ward." In *Tennessee Women: Challenging Boundaries, Claiming Identities*, edited by Beverly Greene Bond and Sarah Wilkerson-Freeman. Athens: University of Georgia Press, forthcoming.
- Foreman, Carolyn Thomas. *Indian Women Chiefs*. Muskogee, Okla.: The Star Printery, Inc., 1954.

Warrior, Clyde

Clyde Merton Warrior (1939–1968), a founder, and from 1966 to 1968 president, of the National Indian Youth Council, was a prominent leader of the Indian student-youth movement.

Warrior was born on the Ponca reservation in Ponca City, Oklahoma, and raised by his grandparents in the traditional Ponca Indian culture. He received a bachelor's degree from Northeastern State University in 1966; by that time he had already developed a reputation as an important Native activist.

Warrior became president of the Southwestern Regional Indian Youth Council in 1961. At the American Indian Chicago Conference he was elected to the drafting committee, which produced the final draft of the Declaration of

Indian Purpose. He studied federal Indian policy at the Workshop on American Indian Affairs, a Native leadership program. In early 1964 Warrior helped carry out one of the early direct action campaigns of the Indian movement with fish-ins to protest for Native fishing rights in Washington State.

At the American Indian Capital Conference on Poverty, Warrior spoke out on how the Johnson administration's War on Poverty could improve life for American Indians. From 1965 to 1967, Warrior worked on the Carnegie Project, organizing traditional Cherokee communities in Oklahoma. From 1965 to 1968, he co-edited a popular periodical, *Indian Voices*. In 1967 Warrior testified before the President's National Advisory Commission on Rural Poverty and delivered an address known as the "We Are Not Free" speech. That same year Warrior received an Opportunity Fellowship from the John Hay Whitney Foundation. Although he died young, Warrior inspired a generation of Indians and helped promote a new sense of Indian nationalism.

See also *Indian Rights Movements; National Indian Youth Council; U.S. Indian Policy: Congress and the Executive, 1960–*

Sterling Fluharty

BIBLIOGRAPHY

- Smith, Paul Chaat, and Robert Allen Warrior. *Like a Hurricane: The Indian Movement from Alcatraz to Wounded Knee*. New York: New Press, 1996.
- Steiner, Stan. *The New Indians*. New York: Delta, 1968.

Washakie

Although most tribes in the western portion of the United States opposed the movement of the United States and its citizens into the West, Washakie (c. 1804–1900), a chief of the Eastern Shoshones, offered assistance to American settlers who traversed the Oregon Trail and cooperated with the U.S. Army in several of its campaigns against the Plains tribes in the 1870s.

Washakie (meaning "Gambler's Gourd" or "Gourd Rattle") was born in Montana to Paseego, a Flathead (Salish), and a Lemhi Shoshone mother. About 1805 Blackfoot raiders attacked Washakie's village and killed his father. The family subsequently joined a band of Lemhi Shoshones. As a young man, Washakie joined the Bannocks for five years and then, during the late 1820s or early 1830s, returned to the Eastern Shoshones. In the 1840s, the Shoshones selected Washakie as chief; by that time he had

gained respect for his abilities as a warrior. During this time he reportedly became friends with Jim Bridger, Christopher "Kit" Carson, and John Frémont; later, he befriended Brigham Young.

The Shoshones resided in the lower Green River Valley in Wyoming. Settlers had begun to pass through their territory on the way to Oregon and California. The Shoshones had a tradition of cooperating with the U.S. government to acquire guns and other support against their Indian enemies. Washakie continued the alliance because he believed that resistance to the United States was futile, and he helped maintain civil relations between whites and the Shoshones, including assisting travelers on the Oregon Trail. However, by the 1860s continued pressure on Indian Territory had altered the stakes. Many Shoshone men left Washakie's band to join some Bannocks and Utes in raiding immigrant parties and settlements on the Utah–Idaho border. The U.S. military responded with a campaign against the Indians. The Eastern Shoshones remained under Washakie's guidance and continued to try to accommodate the United States. Because Washakie had advised peace and had not participated in the attacks, the United States worked through him in negotiating a peace treaty, which was signed in July 1863 at Fort Bridger. As a result of the successful negotiations, Washakie's stature rose among both the Shoshones and the U.S. government.

Despite his desire for peace, relations between the Shoshones and whites continued to deteriorate on the frontier. Washakie and his followers, however, remained loyal supporters of the United States. Complicating the position of the Shoshones, who were divided over how to deal with the encroachments on their territory, was the federal government's interest in constructing a transcontinental railroad through Shoshone lands. On signing another treaty at Fort Bridger in 1868, Washakie's Shoshones agreed to settle on the 400-square-mile Wind River reservation and recognized the right of the Union Pacific Railroad to pass through their territory. Attacks by the Sioux, Cheyennes, and Arapahos delayed the move of the Shoshones until 1872. Despite all that Washakie's Shoshones had done for the United States, in 1878 the government moved a group of their implacable rivals, the Arapahos, onto the Wind River reservation.

In 1874 Washakie and the Shoshones joined a campaign against the Arapahos. In 1876 he sent a group of Shoshones to serve as scouts for the U.S. Army in its fight for the Black Hills against the Lakotas (Sioux). Although they did not fight for the United States at the Battles of the Rosebud and the

Battle of Little Bighorn, they did participate in the pursuits of Crazy Horse and Dull Knife, who were attempting to avoid relocation to a reservation.

In appreciation of Washakie's cooperation with the U.S. government, the Department of War changed the name of Camp Brown to Fort Washakie. In his last years, Washakie was baptized twice, first as a Mormon and later as an Episcopalian. He remained an active and influential leader until late in his life and encouraged his many children and followers to embrace a Western education while at the same time calling on them to retain some of their traditional practices. He died on the Wind River reservation in 1900.

See also *Black Hills*; Carson, Christopher "Kit"; Crazy Horse; Dull Knife; Frémont, John C.; Little Bighorn (1876), Battle of; Railroads; War, U.S. Department of.

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BIBLIOGRAPHY

- Hebard, Grace Raymond. *Washakie: Chief of the Shoshones*. Lincoln: University of Nebraska Press, 1996.
 Stamm, Henry E., IV. *People of the Wind River: The Eastern Shoshones, 1825–1900*. Norman: University of Oklahoma Press, 1999.

Washington v. Washington State Commercial Passenger Fishing Vessel Association (1979)

See *Fishing, Hunting, and Gathering Rights*.

Washington, George

George Washington, the first president of the United States (1789–1797), helped formulate the early Indian policy of the United States and established precedents that affected U. S.–Indian relations for decades to come. During his career, Washington served as commanding general of the Continental Army in the American Revolutionary War (1775–1783) and played a critical role in the founding of the United States.

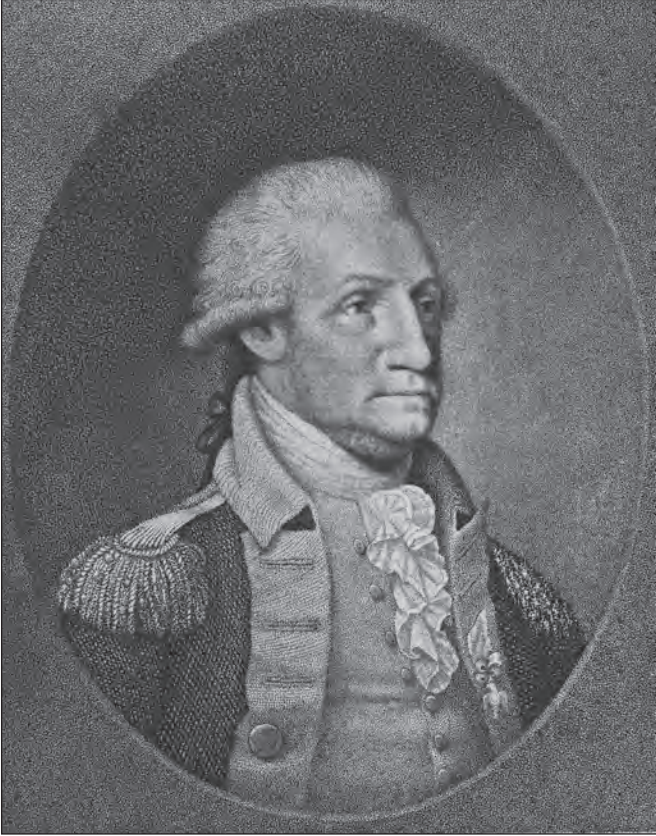
As a young man, Washington was a surveyor and a regular speculator in Indian lands, particularly in western Virginia and the Ohio Valley. He became further involved in Indian affairs during time spent in the British army. In 1754 he served as a lieutenant colonel in the British army and fought in the initial battles of the French and Indian War (1754–1763). During the war Washington was elected to the Virginia House of Burgesses. He continued to speculate in

Indian lands after the war, in disregard of the Proclamation of 1763, a royal decree in which King George III forbade British citizens from buying Indian lands west of the Allegheny and Appalachia mountains.

During the American Revolutionary War, the colonies attempted to secure the alliance, or at least the neutrality, of the Indian tribes. Most of the tribes on the colonies' western frontier were allied with the British, however, and American and Indian forces were pitted against one another as a result. As commander of the Continental Army, Washington ordered attacks on the members of the Iroquois League who were allied with the British. The campaigns of Gen. John Sullivan and Gen. James Clinton destroyed more than forty Iroquois villages, burning their crops and displacing many of their people. Washington also authorized campaigns against the Indian tribes in the Ohio Valley and against the Chickamauga Cherokees and their allies in the South.

After the signing of the Treaty of Paris in 1783 with Great Britain to end the Revolutionary War, the Continental Congress solicited General Washington's advice on how to deal with the Indian nations. The Congress was considering harsh retribution for tribes that had supported Great Britain, including demands that the tribes cede land to the United States. On September 7, 1783, General Washington wrote to the Continental Congress, and his letter had a long-term impact on U.S. policy toward Indians and the Indian nations. Washington described Indians as "wild beasts of the forest" and suggested that "the Savage" was comparable to "the Wolf." He predicted that just as animals had retreated from the advance of the American population, so too would the Indians naturally fall back and their population diminish. Washington advised Congress that the United States need not fight with Indian tribes to acquire their lands—that the United States could save taxes and bloodshed by purchasing, rather than taking, their lands. Congress adopted Washington's recommendation and enacted a resolution on September 22, 1783, that prohibited Americans from settling on or purchasing Indian lands without congressional approval.

After his election as the first president, Washington, on the advice of his secretary of war, Henry Knox, tried to maintain peace with the tribes along U.S. borders, acquiring tribal lands by purchase and expanding trade with Indians. Washington endeavored to control private traders and provide Indians with quality goods at fair prices, in part because unscrupulous traders often incited conflict with Indians. He also wanted to encourage the Indian allegiance to the United States as opposed to such foreign powers as Great



President George Washington's 1783 letter to Congress shaped federal Indian policy for decades to come. Washington advised against taking the Indians' lands by force, encouraging the purchase of the lands and the expansion of trade with the Indians to maintain their allegiance and keep the peace.

Britain or Spain. In 1796 Washington convinced Congress to establish a federal factory system, in which nationally owned "factories," or trading posts, were built across the frontier to trade with Indians. Congress prohibited private trade with Indians under the factory system and provided goods to Indians at cost. Washington believed the factories would tie the Indians' economic interests to the United States, promote U.S. industry, and keep the peace on the nation's borders. Congress reauthorized the factory system several times, and the United States operated as many as twenty-eight factories across the frontier. In 1822 the system was repealed due to pressure from private American mercantile interests.

President Washington also worried about the impact of American settlers on relations with the Indian nations. He often despaired in messages to Congress and in his personal writings that the lawless American element on the frontier was trespassing on Indian territory, stealing Indian property, and causing unnecessary conflicts. Treaties signed during

Washington's administration included provisions for the establishment of borders between the signatory tribe and the United States as well as measures for dealing with trespasses onto Indian territory and crimes committed by non-Indians on Indian land. Washington and Knox also devised a "civilization" program, in which the United States would provide instruction and farm implements to help Indians become English-speaking, Christian farmers like their American neighbors. Once they were acculturated farmers, Knox surmised, Native men would abandon subsistence hunting, and the tribes could then cede their hunting grounds to the United States for distribution to American citizens. As the United States expanded to the West, Knox theorized, the Indians, who would by that time be acculturated to the American way of life, would become assimilated. Washington's administration included "civilization" provisions in treaties, including the Treaty of New York (1790) with the Creeks and the Treaty of Holston (1791) with the Cherokees.

While Washington was seriously concerned with promoting the civilization program and keeping the peace on the frontier, he was equally interested in acquiring land for the expansion of the United States. His administration negotiated several treaties with tribes in which the federal government purchased millions of acres of Indian land. Washington also established the precedent of sending concluded treaties to the Senate for ratification, an indication that he characterized Indian tribes as foreign nations. At Washington's urging, Congress enacted the Trade and Intercourse Acts in 1790. These laws regulated trade with the Indian tribes, included provisions for the civilization program, and provided the federal government with the sole authority to purchase Indian lands.

Washington did not hesitate to use military power to achieve his objectives of national security, order on the frontier, and territorial expansion. During the early 1790s, tribes in the Old Northwest, led by a Miami chief named Little Turtle and supported and supplied by Great Britain, repeatedly attacked American settlers in the Ohio Valley. Washington's administration took two steps to settle the unrest in the region. John Jay negotiated Jay's Treaty (1794), which required the British to abandon forts in the Great Lakes area. Once the tribes' British support was neutralized, Washington sent armies into the region to pacify Little Turtle's uprising. Little Turtle's forces defeated separate military expeditions led by Josiah Harmar and Arthur St. Clair, but Washington sent a new army under Gen. Anthony

Wayne to confront the Indians. Wayne's army defeated the confederated tribes at the Battle of Fallen Timbers on August 20, 1794. After the victory, the United States forced the tribes to cede much of what is now Ohio in the Treaty of Greenville (1795).

Washington frequently hosted Native diplomats during his presidency; during one week he dined with Indian chiefs on four separate nights. These meetings demonstrated Washington's recognition that the United States' economy and national security depended to a great extent on maintaining peace and trade with the Indian tribes during the first unsettled years of the nation's history.

See also *American Revolutionary War (1775–1783); Factory System; French and Indian War (1754–1763); Greenville (1795), Treaty of; Harmar, Josiah; Indian Policy of the Continental Congress; Jay's Treaty (1794); Knox, Henry; Little Turtle; Proclamation of 1763; St. Clair, Arthur; Trade and Intercourse Acts; U.S. Indian Policy: Congress and the Executive, 1803–1848; Wayne, Anthony.*

Robert J. Miller

BIBLIOGRAPHY

- Calloway, Colin G. *The American Revolution in Indian Country: Crisis and Diversity in Native American Communities*. Cambridge: Cambridge University Press, 1995.
- Horsman, Reginald. *Expansion and American Indian Policy, 1783–1812*. East Lansing: Michigan State University Press, 1967.
- Miller, Robert J. *Native America, Discovered and Conquered: Thomas Jefferson, Lewis & Clark, and Manifest Destiny*. Westport, Conn.: Praeger Publishers, 2006.
- . "American Indian Influence on the United States Constitution and Its Framers." *American Indian Law Review* 18, no. 1 (1993): 133–160.
- Prucha, Francis Paul. *American Indian Policy in the Formative Years: The Indian Trade and Intercourse Acts, 1790–1834*. Cambridge: Harvard University Press, 1962.

Washington, United States v. (1974)

See *United States v. Washington (1974)*.

Water Rights

Water always has been crucial in the cultures of Indian tribes. Water supports fisheries and wild rice beds. Water makes agriculture possible, even in the desert southwest where tribes historically irrigated their fields and maintained reservoirs. Water is central to ceremonies and traditional practices. For many tribes, water is sacred.

In the nineteenth century, the federal government pursued an Indian policy first of reservations and then of allotment of

reservation lands. Indian tribes whose homelands may have encompassed millions of acres were confined to far smaller reservations, and beginning in the 1880s, those reservations were often allotted out to tribal members in small plots of land. Even in arid parts of the country, federal policy makers expected individual Indians to become self-sufficient farmers on land barely adequate to support subsistence.

On the Fort Belknap reservation in northern Montana, both Indians and Indian agents on the reservation and non-Indians upstream of the reservation irrigated crops in the 1890s with water from the Milk River. When a severe drought in 1905 left insufficient water for all, the United States sued to stop the upstream non-Indian irrigators from using the water that was needed on the reservation. In the landmark 1908 case of *Winters v. United States*, the U.S. Supreme Court ruled in favor of the United States and the Assiniboin and Gros Ventre tribes of the reservation. Although the agreement that established the reservation in 1888 said nothing about water, the Court held that sufficient water was reserved when the land was set aside. Only with sufficient water would the purpose of creating the reservation be supported. The Indians, the Court said, would not have agreed to a reservation if it meant giving up the water that "made it valuable or adequate."

As a result of the case, the "*Winters* doctrine" provides that every Indian tribe that has federally reserved lands also has rights to water. In general, when land is set aside for a tribe, it is implied that enough water is reserved to fulfill the purposes for which the reservation was created. These *Winters* rights to water are federal law rights. They are paramount over later-arising state-law water rights, and they cannot be lost through nonuse.

At the time, the *Winters* decision was decried by some as the downfall of the local economy and welcomed by others who believed that it would hasten federal water projects to bring water to non-Indian irrigators. In the seventy years following the decision, in fact, the federal government devoted considerable resources to reclamation projects in the West for non-Indian irrigators. Despite widespread western knowledge of the *Winters* case, however, few federal resources were allocated to water projects for reservations. Indian tribes that were entitled by law to water were often not receiving much water to use. In the 1960s and 1970s, tribes and the United States began to litigate tribal reserved rights to water.

All of the litigation establishing *Winters* rights has taken place in western states. Western states use the prior appropri-

ation doctrine for state-law water rights, which provides that first-in-time is first-in-right. Although tribal water rights are not state-law rights, the two sets of water rights must work together. Tribal water rights thus are assigned a “priority date” and are quantified. The priority date is generally the date that the land was set aside. Because most Indian reservations were created during the late nineteenth century, tribal water rights are nearly always the first, or among the earliest, water rights that must be satisfied if there is not enough water to meet all uses.

The way of quantifying tribal rights has begun to change. In a 1963 case, the Supreme Court used a standard of practicably irrigable acreage (PIA), finding that because the reservations in that case had been set aside for agricultural purposes, an agricultural measure of the water quantity was sensible. More recently, other courts, such as the Arizona Supreme Court, have ruled that particular reservations were set aside not just for agriculture, but also as the homelands of the tribes. In those cases, water is quantified not only by the PIA standard, but also by a variety of other measures to ensure that tribal needs are met.

Also litigated during these years were the water rights of allottees and non-Indians who purchased allotments when the trust period on them expired. When reservation lands were allotted to tribal members in relatively small parcels, usually 80 to 160 acres, federal policy makers intended the Indians to become independent farmers. In 1981 the Ninth Circuit Court of Appeals ruled that allottees of reservation land must thus receive a “ratable share” of the tribe’s irrigation water right, based on the number of irrigable acres in the allotment. The allottees would have the same priority date as the tribe, and their water rights, like the tribe’s, would not be lost through nonuse. When a non-Indian acquires an allotment, the purchaser also acquires the allottee’s water right with the tribe’s priority date. Because these priority dates are so early, allotments were attractive to non-Indians who wanted secure water rights. Unlike an allottee, however, the non-Indian purchaser may lose the water through nonuse. The non-Indian purchaser has a right to early priority water, up to the maximum of the allottee’s right, only to that amount of water that the non-Indian puts to a beneficial use within a reasonable time after the purchase of the land. These non-Indian rights are sometimes referred to as “*Walton* rights” after the name of the non-Indian litigant in the Ninth Circuit case.

In addition to *Winters* rights, some tribes may have reserved rights to water to support their aboriginal practices,

such as fishing or traditional farming. In the 1905 case of *United States v. Winans*, the Supreme Court held that Indian tribes that had expressly reserved the right to fish at their usual and accustomed places in their treaties had also implicitly reserved the rights, such as access to the fishing places, necessary to exercise the fishing right. If water is necessary to the exercise of an aboriginal right, the *Winans* case may mean that water is reserved by implication. For example, the tribes of the Pacific Northwest expressly reserved the right to fish in their treaties, and water in the rivers is necessary to preserve fish habitat so that the species survive. As another example, many of the southwest tribes traditionally engaged in irrigated agriculture, so irrigation water would be necessary to the continuation of that aboriginal way of life. Under this theory, *Winters* rights to water are implied to fulfill the purposes for which the federal government set land aside, and *Winans* rights to water are implied to allow a tribe to continue recognized aboriginal practices.

Litigation is not the only way to establish tribal water rights. In recent decades, tribes and states have been entering into negotiated settlements of tribal water rights as an alternative to litigation. Between 1978 and 2006, twenty water settlements were enacted into law by Congress, and more are under consideration. In these settlements, the tribes agree to waive their claims to their *Winters* rights in exchange for a guaranteed quantity of water and federal funding to assist in developing the water and putting it to use. Water settlements also may address issues that are unresolved in litigation, such as the right to use groundwater, the uses that the tribe may make of its water, and whether the water right may be leased to off-reservation users.

Negotiated water settlements have advantages and disadvantages. Settlements arguably take less time and money for all parties than litigation, and settlements are generally more flexible. Tribes agree to take less water than they would claim under the *Winters* doctrine in litigation, but in return they receive “wet” water—that is, funding that allows the water to be put to use rather than mere paper rights. Today, negotiated settlements appear to be the preferred means for resolving tribal water rights.

See also *Agriculture and Agricultural Policy; Fishing, Hunting, and Gathering Rights; Tribal Acknowledgment (Federal); United States v. Winans* (1905); *Winters v. United States* (1908).

Judith V. Royster

BIBLIOGRAPHY

- Arizona v. California*, 373 U.S. 546 (1963).
- "Collective Statement on Water and Climate Change: Water Is a Human Right." Intervention to the Seventh Session of the United Nations Permanent Forum on Indigenous Issues 2008, submitted by the Seventh Generation Fund for Indian Development (www.7genfund.org).
- Colville Confederated Tribes v. Walton*, 647 F.2d 42 (9th Cir. 1981).
- In re General Adjudication of All Rights to Use Water in the Gila River System and Source*, 35 P.3d 68 (Ariz. 2001).
- McCool, Daniel. *Command of the Waters: Iron Triangles, Federal Water Development, and Indian Water*. Berkeley: University of California Press, 1987.
- Newton, Nell Jessup, ed. *Cohen's Handbook of Federal Indian Law*. Newark, NJ: LexisNexis, 2005.
- Shurts, John. *Indian Reserved Water Rights: The Winters Doctrine in its Social and Legal Context, 1880s–1930s*. Norman: University of Oklahoma Press 2000.
- Sunseri, Alvin R. "Agricultural Techniques in New Mexico at the Time of the Anglo-American Conquest." *Agricultural History* 47 (October 1973) 329–337.

Watie, Stand

Stand Watie (1806–1871) was born in the Cherokee Nation, near present-day Rome, Georgia. Educated at the Spring Place Moravian mission schools, he farmed, owned a ferry, and worked with his brother Elias Boudinot (Buck Watie) on the *Cherokee Phoenix* newspaper. He served as the clerk for the Cherokee Supreme Court (1823–1830).

As Georgia increased its pressure on the Cherokees to remove, Stand Watie became resigned to the idea that the Cherokees should make the best deal they could and relocate to the Indian Territory. In 1835 he joined his brother and his kinsmen, John Ridge and Major Ridge (who became known as leaders of the "Treaty Party"), in signing the Treaty of New Echota, in which they agreed that the Cherokees would remove to the Indian Territory. The majority of the tribe, led by Principal Chief John Ross, rejected the treaty. Nonetheless, the U.S. government forced the Cherokees to relocate over the fall and winter of 1838–1839. Once the Cherokees arrived in the Indian Territory, the two Ridges and Boudinot were assassinated by "Ross Party" adherents, apparently for their part in selling the land of the Cherokee Nation. Watie was also targeted for death but received a warning prior to the attack and escaped. Watie and other friends and allies retaliated against the killings, leading to a long period of civil conflict among the "Treaty" and "Ross" parties.

In 1846 Watie signed a reconciliation treaty the United States orchestrated between the two factions. Watie became

a successful slave-owning planter in the Indian Territory and served for many years on the Cherokee National Council (1845–1861).

At the outbreak of the American Civil War, Principal Chief John Ross attempted to keep the Cherokees out of the conflict. However, in August the Cherokees signed a treaty of alliance with the Confederate States of America. Watie organized a regiment of Cherokee Confederate cavalry and became known for his genius in guerilla warfare, particularly at the battle of Pea Ridge in Arkansas (1862). When the Cherokee Nation splintered into factions supporting the Union or the Confederacy, the Confederate Cherokees elected Watie as their principal chief in 1863. In 1864 Watie was promoted to brigadier general, becoming the only Indian to reach the rank of general during the war. Hoping to secure favorable peace terms for the Cherokees, Watie became the last Confederate general to surrender. He later joined the Confederate Cherokees treaty delegation but generally left its leadership to others.

After the war, Watie practiced law and farmed. In 1869 Watie and his nephew Elias C. Boudinot established a tobacco factory in Missouri, which they subsequently moved into the Indian Territory. However, the federal government arrested the two entrepreneurs and confiscated the operation for failure to pay excise taxes. Watie and Boudinot argued that the Cherokee Treaty of 1866 exempted them from the tax. In 1871 the U.S. Supreme Court ruled against the proprietors in the *Cherokee Tobacco* case, holding that Cherokees were subject to federal tax laws. More important, the Court also declared that Congress had the power to alter the stipulations of an Indian treaty. Watie died that same year.

See also *Boudinot, Elias Cornelius*; *Cherokee Phoenix*; *Civil War*; *Removal*; *Ridge Family*; *Ross, John*; *Taxation*; *Tobacco*; *Trail of Tears (1838–1839)*; *U.S. Supreme Court and Indian Policy, 1789–1871*.

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BIBLIOGRAPHY

- Dale, Edward Everett and Gaston Litton, eds. *Cherokee Cavaliers*. Norman: University of Oklahoma Press, 1939.
- Franks, Kenny A. *Stand Watie and the Agony of the Cherokee Nation*. Memphis, Tenn.: Memphis State University Press, 1979.
- Wilkins, Thurman. *Cherokee Tragedy: The Ridge Family and the Decimation of a People*. 2nd ed. Norman: University of Oklahoma Press, 1989.

Watkins, Arthur V.

As a U.S. senator from Utah from 1947 to 1958, Arthur V. Watkins (1886–1973) was a major proponent of the policy of termination, which called for withdrawal of all federal services to Indian tribes and the end of the special trust relationship between tribes and the federal government. Watkins served on the Senate Committee on Interior and Insular Affairs and on the Subcommittee on Indian Affairs, where he pursued his interests aggressively and, critics contend, with little concern for the human consequences of termination.

In 1934 the Indian Reorganization Act (IRA) signaled a new direction in Indian policy. The IRA sought to enhance tribal self-determination through the establishment of tribal constitutions and Indian self-government. Watkins believed that the IRA went too far and urged its rollback. He continued to push for termination policies, believing them the best approach to freeing the Indians of their wardship status.

With the passage in 1953 of Public Law 280, the termination process began in earnest. Advocates of Indian rights protested that the bill did not require tribal consent to the termination process. When the Senate Committee on Interior and Insular Affairs approved proposed amendments to the bill requiring tribal consent, Watkins wrote a strongly worded minority report arguing that Indians should have no more right than any other citizens to veto bills. He proved instrumental in securing congressional support for several termination bills, including those that affected the Menominees, the Klamaths, and the Ute communities in his home state. Watkins made a habit of withholding payment of claims settlements absent tribal approval of termination. Watkins lost his bid for re-election in 1958, and in 1960 President Dwight D. Eisenhower appointed Watkins to the Indian Claims Commission where he served as chair and chief commissioner until 1967.

See also *Indian Reorganization Act (1934); Public Law 280 (1953); Termination and Restoration.*

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BIBLIOGRAPHY

- Fixico, Donald L. *Termination and Relocation: Federal Indian Policy, 1945–1960*. Albuquerque: University of New Mexico Press, 1986.
- Metcalf, R. Warren. *Termination's Legacy: The Discarded Indians of Utah*. Lincoln: University of Nebraska Press, 2007.
- Watkins, Arthur V. "Termination of Federal Supervision: The Removal of Restrictions over Indian Property and Person." *The Annals of the American Academy of Political and Social Science* 311 (May 1957): 47–55.

Wayne, Anthony

Anthony Wayne (1745–1796) was an American military leader who rose to prominence with his service in the Continental Army during the American Revolutionary War. He is most noted for his command of American forces against the pan-Indian coalition at the Battle of Fallen Timbers (1794) and for leading the subsequent negotiation of the Treaty of Greenville (1795).

Wayne was commissioned as a colonel in the Continental Army in early 1776. His performance during the Revolutionary War won him fame. During the early years of the war he relieved the Continental retreat from Canada at the Battle of Trois Rivières (1776), took command of Fort Ticonderoga, and was promoted to brigadier general in 1777. Wayne served with distinction at Brandywine Creek (1777), Germantown (1777), and Monmouth (1778). He served alongside Lafayette in the campaign against Cornwallis in 1781 and played a major role in expelling British forces from Georgia in 1782.

He returned to Pennsylvania after the war and held several statewide offices. A Georgia rice plantation he had received for his Revolutionary service drove him deep into debt, and he began petitioning for a federal office in 1791. President George Washington selected Wayne to organize and lead the new Legion of the United States against the pan-Indian alliance in the Northwest Territory, which had defeated armies under Josiah Harmar and Arthur St. Clair. Operating out of Fort Washington (Cincinnati) throughout 1793 and 1794, Wayne pushed his troops hard, emphasizing drill and discipline. Marching northward against the Northwest Confederation in the summer of 1794, Wayne won a decisive victory at Fallen Timbers along the Maumee River on August 20. The next summer he brought leaders of the major northwestern Indian nations to Fort Greenville for the Treaty of Greenville (1795), where they ceded the bulk of what is now the modern state of Ohio to the United States.

Wayne took command of Detroit from the British after the ratification of Jay's Treaty. He died of complications from gout in late 1796.

See also *American Revolutionary War (1775–1783); Fallen Timbers (1794), Battle of; Greenville (1795), Treaty of; Harmar, Josiah; Jay's Treaty; Northwest Ordinance; St. Clair, Arthur.*

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BIBLIOGRAPHY

- Knopf, Richard C., ed. *Anthony Wayne, a Name in Arms: Soldier, Diplomat, Defender of Expansion Westward of a Nation: The Wayne-Knox-Pickering-McHenry Correspondence*. Pittsburgh, Pa.: University of Pittsburgh Press, 1959.
- Nelson, Paul David. *Anthony Wayne: Soldier of the Early Republic*. Bloomington: Indiana University Press, 1985.

Weatherford, William

William Weatherford (1780–1824), also known as Red Eagle, was a Creek (Muscogee) Indian who came to prominence after leading an offensive against the United States during the Creek Civil War.

Weatherford was reputedly the son of Charles Weatherford, a Scottish trader, and Sehoy III, a Creek Indian of the Wind Clan. During the Creek Civil War, he chose to side with the Red Sticks, who called for the eradication of American influence in the Creek Nation. Weatherford was inspired to join the nativist Red Stick revitalization movement by the Shawnee leader Tecumseh, who visited among the Creeks in the fall of 1811. After hearing Tecumseh's message calling for a unification of tribes to secure freedom from the United States, Weatherford joined the pan-Indian offensive against American settlers and accommodationist Creeks. On the morning of August 30, 1813, Weatherford led an army of 1,000 Red Sticks against American soldiers and settlers at Fort Mims on the Alabama and Tombigbee rivers. Their surprise attack led to the fort's destruction and the deaths of approximately 500 men, women, and children; only 36 of the inhabitants survived.

News of the massacre outraged the American public and Congress, and southern states called up their militias to retaliate. Tennessee raised an army of 3,500 men to suppress the Creeks. The Tennesseans were joined by Cherokee, Chickasaw, Choctaw, and "White Stick" accommodationist Creek fighters. Andrew Jackson led this army southward into the Creek Nation and engaged the Red Sticks at Tallushatchee, Talladega, Econochaca, Emuckfaw, and Enotachopco. Weatherford was present and led Red Stick forces in most of these battles.

The Red Sticks were finally defeated by Jackson's army at the Battle of Horseshoe Bend on March 27, 1814. Approximately 800 to 1,000 Creeks died in the battle, as the American troops pinned the Red Sticks down on the peninsula formed by the Tallapoosa River. Weatherford, however, was not present at the battle; he had left before the attack to inspect other Creek fortifications and thus survived the

annihilation of the Red Sticks. Weatherford walked into Jackson's camp several days later and surrendered. Weatherford expected to be executed, but Jackson allowed Weatherford to go free.

After the battle, the Creeks were forced to sign the Treaty of Fort Jackson and surrender approximately 23 million acres of their territory. Those Red Sticks who escaped Horseshoe Bend moved south and settled among the Seminoles. Weatherford, however, did not join them. He lived out the remainder of his short life in Alabama as a successful plantation owner.

See also *Creek Civil War (1813–1814)*; *Fort Jackson (1814)*, *Treaty of Jackson, Andrew*; *Tecumseh*; *Tenskwatawa*; *War of 1812 (1812–1814)*.

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BIBLIOGRAPHY

- Griffith, Benjamin W. Jr. *McIntosh and Weatherford, Creek Indian Leaders*. Tuscaloosa: University of Alabama Press, 1988.
- Martin, Joel W. *Sacred Revolt: The Muskogees' Struggle for a New World*. Boston: Beacon, 1991.

Welsh, Herbert

Herbert Welsh (1851–1941) was a founder and early leader of the Indian Rights Association (IRA). He was born into a wealthy Philadelphia family, which allowed him to devote his life to philanthropic and humanitarian concerns. He graduated from the University of Pennsylvania and spent two years studying art in Paris. In 1882 Welsh helped form the IRA, serving as its corresponding secretary for thirty-five years and as its president for eleven years.

Welsh's interest in Indian affairs grew out of a trip that he and Henry Pancoast made to visit missions among the Sioux Indians in the Dakota Territory. After returning from this trip, Welsh hosted a gathering at his family's home, which served as the organizational meeting for the IRA. Like most of the "Friends of the Indians" organizations in this era, the IRA was concerned about the problems facing Native peoples, but their proposed solutions were ethnocentric and showed little awareness or concern about what the Indians themselves desired. Under Welsh's leadership, the IRA pushed for individual allotment of reservation lands, expansion of educational programs, U.S. citizenship for tribal peoples, and Christian evangelization of the Indians.

In the early 1900s, the influence of the IRA began to decline. Charles C. Painter, one of the group's major lobby-

ists, died, and Welsh began to turn his attention to other reform causes. A new generation of reformers, less ethnocentric and more concerned with the Indians' right to maintain their own culture, disapproved of the IRA's assimilationist approach.

See also *Indian Rights Association; Lake Mohonk Conferences; Welsh, William.*

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BIBLIOGRAPHY

- Hagan, William T. *The Indian Rights Association: The Herbert Welsh Years, 1882–1904*. Tucson: University of Arizona Press, 1985.
- Prucha, Francis Paul. *American Indian Policy in Crisis: Reformers and the Indian, 1865–1900*. Norman: University of Oklahoma Press, 1976.
- Welsh, Herbert. *How to Bring the Indian to Citizenship, and Citizenship to the Indian*. Philadelphia, Pa.: Indian Rights Association, 1892.

Welsh, William

William Welsh (1810–1879) of Philadelphia, Pennsylvania, was an Episcopal layman and wealthy merchant who spent much of his time and money aiding philanthropic causes. Welsh believed reformer involvement would provide an effective means of translating the ideas of Christian and other benevolent organizations into public policy.

Welsh used the pages of the church's monthly publication, the *Spirit of Missions*, to advocate for Indian policy reform. He called for the establishment of schools for Natives, the appointment of Indian agents with demonstrable Christian values, and for instilling in Indians an appreciation for individual property rights through the allotment of their territory.

Upon Ulysses S. Grant's election, Welsh called upon the new president to involve Christian philanthropists in reform. In particular, he called for Grant to end corruption in the Office of Indian Affairs. This led to Congress and Grant's creation of the Board of Indian Commissioners. Welsh served as the first chair but resigned June 29, 1869, before the board really got started, because of disagreements with Commissioner of Indian Affairs Ely S. Parker over the extent of the board's authority to change policy.

Welsh's involvement with, and influence upon, Indian policy did not end with his resignation. He continued to be a critic of the Office of Indian Affairs and was one of the few civilian reformers who called for the return of Indian affairs responsibility to the War Department. In an act of apparent retaliation, Welsh led an attack on Parker and charged him

with unethical dealings. Congress investigated the charges, but Parker was cleared. Welsh also served as an effective outside critic of the Grant administration's Indian policy. Welsh went on to head the Domestic and Foreign Missionary Society's auxiliary for Native Americans and chaired the General Convention Committee on Indian Affairs. President Rutherford B. Hayes later offered Welsh the position of commissioner of Indian affairs, but Welsh declined.

William Welsh's nephew, Herbert Welsh, later took over his uncle's role as a leading public advocate of reform of U.S. Indian policy.

See also *Board of Indian Commissioners; Grant, Ulysses S.; Indian Rights Association; Parker, Ely S.; Religious Organizations and Indian Policy; Welsh, Herbert.*

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BIBLIOGRAPHY

- Armstrong, William H. *Warrior in Two Camps: Ely S. Parker, Union General and Seneca Chief*. Syracuse, NY: Syracuse University Press, 1978.
- Welsh, William. *Indian Office: Wrongs Doing and Reforms Needed*. Philadelphia: s.n., 1874.
- . *Taopi and His Friends, or, the Indians' Wrongs and Rights*. Philadelphia, Pa.: Claxton, Remsen, and Haffelfinger, 1868.

Westward Migration

In the 1890s, Frederick Jackson Turner, one of the nation's most influential historians, theorized that the experience of repeatedly settling a continuously westward-moving frontier had molded Americans into a uniquely democratic and adventurous people. In his model, the existence of "an area of free land, its continuous recession, and the advance of American settlement westward explain[ed] American development" (Turner, "Significance of the Frontier," 1984). Turner's "frontier thesis" quickly became, and remains, a powerful national document, reinforcing Americans' conception of themselves as an individualistic and pioneering people. Subsequent historians have pointed to many flaws in Turner's thesis, including its ethnocentrism and neglect of areas—among them Texas, Oregon, and New Mexico—that do not fit into an east-to-west model of development.

Despite its problems, the westward expansion narrative describes many aspects of American development, particularly involving the creation of states. Thus it is a useful framework from which to begin an investigation of U.S. Indian policy. From the country's inception throughout the nineteenth and into the twentieth century, the guiding principle

Railroad construction played a pivotal role in the westward movement of settlers, whose advance encroached on Indian lands. U.S. Indian policy was significantly shaped by expansionist interests.



in the creation of Indian policy was the acquisition of land in areas where Indians were an immediate barrier to either westward-moving settlers or an expanding nation-state. Although this model simplifies a complex story, it highlights those regions and tactics that were most important to policy makers at the time. Beginning with a policy of conquest and then “civilizing” in the Old Northwest, followed by one in the South of removal to a permanent Indian Territory on the Middle Border and the creation of reservations on the Great Plains, policy was fashioned with the acquisition of a specific area of land in mind; this policy would then be replaced with others better suited to acquiring another region once the first had been settled. The history of American territorial expansion involves concomitant questions of legal jurisdiction with devastating consequences for the Native populations.

Although the primary goal of U.S. policy remained remarkably consistent, its effectiveness did not. One of the primary reasons for the continual change in tactics was the reaction of Natives to conditions of which they disapproved. Indians were not always helpless victims at the mercy of the U.S. government but also used a variety of diplomatic, political, and military tactics to influence policy. Not all Indians viewed U.S. expansion in the same light. While some Indians tenaciously fought against any American presence, others welcomed representatives of the government as possible

allies against other, more immediate enemies. In addition, U.S. Indian policy was not driven by overwhelming consensus. Intricately tied to questions of slavery, land use, and federal jurisdiction, not to mention the variety of attitudes of white Americans toward Natives themselves, Indian policy was passionately debated within the government and by the public at large. It is important to remember that although U.S. policies attempted to treat Native Americans as a homogenous group, neither the officials who created the policies nor the Indians who were affected by them spoke with one voice.

The Old Northwest

For the first hundred years of the United States’ existence, the primary goal of the young nation’s Indian policy was the acquisition of land. Following the American Revolution, the Continental Congress argued that by joining the now-conquered British, the Ohio River Valley Indians had forfeited the “right of soil” that they had enjoyed under the previous imperial power. Rather than purchasing land from Indians in a formal treaty as the British had done, the Continental Congress proclaimed that all land east of the Mississippi belonged to the United States. Although some cessions would be made to allow Indians to stay on unwanted land, territorial sovereignty lay squarely within the United States. American officials thus dictated the following treaties to

what they considered conquered nations: Fort Stanwix in 1784 with the Six Nations of the Iroquois (though the land ceded by the Six Nations was in fact controlled by the Shawnees and Delawares); Fort McIntosh in 1785 with the Chippewas, Delawares, Ottawas, and Wyandots; and Fort Finney in 1786 with the Shawnees.

The tribes of the Old Northwest quickly demonstrated, however, that they would not simply accede to American claims of conquest and violently resisted settler expansion. Aware that the United States was unable financially or militarily to protect frontier settlements from increasingly violent interactions with Indians, the Continental Congress came up with a new Indian policy whose aim was to gradually obtain Indian land as cheaply as possible. The new policy, designed by Secretary of War Henry Knox and American military commander George Washington, was articulated in Article 3 of the Northwest Ordinance of 1787: "The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights and liberty, they shall never be invaded or disturbed, unless in just and lawful wars authorized by Congress."

Along with the bloodless acquisition of land, the plan added a moral dimension to Indian policy through its project to "civilize" the Indians. Begun by Knox and Washington but greatly expanded by Thomas Jefferson, this program aimed at transforming Indians from hunters to farmers—disregarding that many were already expert agriculturalists—who could then be absorbed into white society. Thus, as new lands were slowly acquired by formal treaties, Indians living in adjacent regions would learn agricultural skills and other Euro-American arts of civilization, making the next cession possible. To control the speed with which the frontier advanced, Congress passed two sets of trade and intercourse acts on July 22, 1790, and March 1, 1793. Each licensed who could trade with the Indians, forbade settlement in Indian Country, provided the punishment for those who did settle or commit a crime in Indian Country, and reinforced the Knox-Washington position that only the federal government, not the states, could acquire Native lands.

It was not long, however, before white encroachment onto Indian lands and the violence it fostered highlighted a major flaw in the theory of controlled expansion: the speed with which settlers clamored for lands made any civilization project nearly impossible. Following the War of 1812, during which many Indian nations fought alongside the British, Congress enacted a new set of removal treaties opening up

vast amounts of land in the Old Northwest. Largely coerced treaties with the Chippewas (Ojibwes), Delawares, Miamis, Potawatomis, Sioux, Weas, Winnebagos, Wyandots, and others in 1815, 1816, and 1817 expanded the process of removal that would become so common in the following decades.

Southern Removal

While many Indian groups in the Old Northwest actively fought American expansion, many of those living in the states of Alabama, Georgia, Mississippi, and Tennessee had successfully adapted to the agricultural standard envisioned by Jefferson and lived relatively peaceably among the advancing whites. With the exception of the Seminoles, four of the five major tribes in the Southeast—the Cherokees, Chickasaws, Choctaws, and Creeks—willingly ceded extensive portions of their land, and small factions from each of the tribes moved west in exchange for the promise of no future relocations. By the 1820s, however, calls for more land by white cotton growers prompted the legislatures of these states to invalidate federal treaties and claim control of Indian land. In response, the Cherokee Nation drafted a constitution and declared sovereign jurisdiction over its own territory, setting up a political and legal showdown.

In 1830 newly elected President Andrew Jackson helped push through Congress the hotly debated Indian Removal Act. The law appropriated funds for the relocation of Indians to lands west of the Mississippi River in exchange for the Indian-held lands in the East. Bringing together Indian advocates who felt that removal was the only way to preserve Indian peoples from destruction and land-hungry expansionists, the act narrowly passed on May 28, 1830. The Cherokees brought legal action to stop state encroachments on their territorial and political autonomy in *Cherokee Nation v. Georgia* (1831) and *Worcester v. Georgia* (1832), in which they seemed to win meaningful victories. In the first case, Chief Justice John Marshall ruled that the Cherokees were a "domestic dependent nation"; in the second, the Court held that the Cherokees comprised a sovereign nation that held the right to live free from state encroachment and intimidation. Although the latter ruling would have significant legal ramifications for the sovereign status of Indian nations in the future, President Jackson nullified its immediate significance by simply ignoring the Court's decision. Throughout the 1830s, the Cherokees, Choctaws, Creeks, and Chickasaws were removed from lands east of the Mississippi to new territories in the Indian Territory (in what is now Oklahoma). Mismanaged and with little con-

cern for Indian welfare, these removals were epitomized by the Cherokee Trail of Tears in 1838–1839, during which somewhere between one-fourth and one-half of the Cherokees died en route to their new “home.”

The Middle Border

Unfortunately, the Indians were not moved into vacant lands but into areas already claimed by other groups as important hunting grounds. The arrival of these Indians put immediate pressure on those already living in the trans-Mississippi West, such as the Kansas, Osages, and Omahas. Despite the problems created by the U.S. policy of removal, some Indian groups in the region that would become Kansas and Nebraska looked to the expanding United States as a possible ally against Plains Indians, such as the Comanches and Western Sioux (Lakotas), both of whom were also expanding into their territory. Thus, as the Indians from the Southeast were being expelled from their homes by land-hungry whites, Indians living just west of the Missouri River were looking to the United States for protection and signed new treaties with this strategy in mind. As with the American public at large, Indians were not unified in their attitudes toward an expanding United States. Not only did different tribes act with different political agendas in mind, but disagreements, often violent, erupted within groups about the prudence of treating with the United States.

An important element of these treaties was that in exchange for large tracts of land, the government would provide protection from white settlers and other Indian groups. To accomplish the first aspect of this task, Superintendent of Indian Affairs William Clark and future secretary of war Lewis Cass outlined several principles that would form the basis of the Trade and Intercourse Act of June 30, 1834, the most dramatic of which was “a solemn declaration that the land assigned to the Indians in the West would be theirs forever and that White settlement would never encroach upon it.” With the prodding of Baptist Missionary Isaac McCoy, the House Committee on Indian Affairs went so far as to establish boundaries for a permanent Indian state in which a government of confederated tribes would control internal affairs and ultimately send a representative to Congress. Due to a lack of interest on the part of most Indian groups as well as opposition by expansionists, such as Missouri senator Thomas Hart Benton, the plan never came to fruition despite numerous attempts to revive it over the next decade.

One of the biggest obstacles to such a territory and a consistent Indian policy was the resurgence of republican impe-

rialism in the 1840s. With the annexation of Texas in 1845, the settlement of the Oregon question in 1846, and the end of the U.S.–Mexican War in 1848, the United States grew by an incredible 70 percent; these newly acquired territories contained people, Native and non-Native, who had to be incorporated into an already failing system of governance. Add to this the discovery of gold at Sutter’s Mill in 1849 and the hundreds of thousands of people and animals traveling through lands recently guaranteed to Indians in perpetuity, and the difficulty of forming a realistic and humane policy becomes evident. Nonetheless, expansion itself was not fore-ordained. Despite the phrase coined by New York newspaper editor John Sullivan that it was American’s “*manifest destiny* to overspread the continent allotted by Providence for the free development of our yearly multiplying millions,” many Americans remained reluctant about expanding beyond the Mississippi (John O’Sullivan, “Annexation,” *United States Magazine and Democratic Review* 17, no. 1 [July–August 1845]: 5–10). While most Democrats saw expansion and the extension of an agricultural society as the only way to cure social ills and the economic depression brought on by the Panic of 1837, Whigs saw industrialization as the key to economic and social well-being. The massive expansion that began in the mid-1840s was, in fact, more the result of political machinations than any popular belief in a God-given right to the continent. Regardless of its source, westward expansion in the 1840s, 1850s, and 1860s was an unmitigated disaster for Indian peoples, particularly those living on the Middle Border and the Great Plains.

The Great Plains and Beyond

With the acquisition of new territories such as Oregon and New Mexico, and the array of social, cultural, and economic activities occurring within them, it is clear that U.S. development in the 1850s and 1860s was not simply in a westerly direction. Yet the Civil War, the belief many Americans had in a westward-moving empire, and increased geographic knowledge that dispelled the myth of the Great American Desert combined to focus U.S.–Indian policy in a progressively western direction and once again forced the Indians onto smaller and smaller areas of land. The 1851 Treaty of Fort Laramie, for example, granted the United States the right to establish roads and military posts in the northern Great Plains, while greatly curtailing Indians’ access to hunting lands.

Commissioner of Indian Affairs George Manypenny negotiated several other treaties in 1854 and 1855 clearing

the way for the Kansas-Nebraska Act, organizing these territories for statehood, and settlement of a region that just ten years earlier had been guaranteed to the Indians “as long as the grass shall grow.” The treaties either required that Indians live in concentrated reservations or contained provisions for allotments in severalty to Indians who chose to remain on homesteads under fee simple tenure. This “reservation policy” was believed to be the only alternative to extinction for the Indians and was enforced most aggressively in the 1860s, sometimes even without the legitimizing appearance of treaties, as increased resistance by Plains tribes and such shocking events as the Sand Creek Massacre led the U.S. government to institute the ironically named “peace policy.” The policy’s guiding principle was to convince tribes to relocate onto reservations, and if they refused to do so, use military power to force them into compliance.

The huge reservations created in the post-Civil War era had all along been conceived as temporary measures. As soon as Indians were no longer dependent on hunting and had learned agricultural arts, it was expected that individual families would establish their own farms and the extraneous land sold to white settlers. To speed up this process, the Interior Department introduced what would finally become the General Allotment Act, or Dawes Act, of 1887, which divided communal tribal lands and distributed them in tracts of 160 acres to heads of Indian families and 80 acres to unmarried adults. Disregarding traditional Indian land usage, Indians would now be owners of individual plots and could not sell them for twenty-five years. By that time, the government calculated, the allottees would be ready to be assimilated by the United States.

Though devised and used primarily as a tool for acquiring Indian land, U.S. Indian policy was not created with the goal of destroying Indian cultures. Throughout the eighteenth and nineteenth centuries, numerous politicians and reformers acted with what they believed to be the Indians’ welfare in mind. Whatever the intentions of its regulators, however, the policies of removal and assimilation were largely destructive for Indians, as western expansion did not stop at the turn of the century. Natives in Alaska and Hawaii were subject to the damaging affects of government policies designed to acquire their lands. In that respect at least, the government’s policy was a remarkable success.

See also *Allotment in Severalty*; *Cass, Lewis*; *Cherokee Nation v. Georgia* (1831); *Civilization Program*; *Clark, William*; *Discovery, Doctrine of*; *Fort Laramie* (1851), *Treaty of*; *General Allotment Act*

(*Dawes Act*) of 1887; *Gold and Gold Rushes*; *Indian Peace Commission*; *Indian Removal Act* (1830); *Indian Territory*; *Jackson, Andrew*; *Jefferson, Thomas*; *Manypenny, George W.*; *Marshall, John*; *Northwest Ordinance*; *Removal*; *Reservations*; *Sand Creek Massacre* (1864); *Trade and Intercourse Acts*; *Texas*; *Trail of Tears* (1838–1839); *U.S.-Mexican War* (1846–1848); *Worcester v. Georgia* (1832).

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BIBLIOGRAPHY

- Berkhofer, Robert F., Jr. “Americans versus Indians: The Northwest Ordinance, Territory Making, and Native Americans.” *Indiana Magazine of History* (March 1988): 91–108.
- Burnham, Philip. *Indian Country, God’s Country: Native Americans and the National Parks*. Washington, D.C.: Island Press, 2000.
- Cayton, Andrew R. L., and Fredrika J. Teute, eds. *Contact Points: American Frontiers from the Mohawk Valley to the Mississippi, 1750–1830*. Chapel Hill: University of North Carolina Press, 1998.
- Danziger, Edmund Jefferson. *Indians and Bureaucrats: Administering the Reservation Policy during the Civil War*. Urbana: University of Illinois Press, 1974.
- Gates, Paul Wallace, ed. *The Rape of Indian Lands*. New York: Arno Press, 1979.
- Greenwald, Emily. *Reconfiguring the Reservation: The Nez Percés, Jicarilla Apaches, and the Dawes Act*. Albuquerque: University of New Mexico Press, 2002.
- Hauptman, Laurence M. *The Oneida Indians in the Age of Allotment, 1860–1920*. Norman: University of Oklahoma Press, 2006.
- Hietala, Thomas. *Manifest Design: Anxious Aggrandizement in Late Jacksonian America*. Ithaca, N.Y.: Cornell University Press, 1985.
- Horsman, Reginald. *Expansion and American Indian Policy, 1783–1812*. East Lansing: Michigan State University Press, 1967.
- Hoxie, Frederick E., Ronald Hoffman, and Peter J. Albert, eds. *Native Americans and the Early Republic*. Charlottesville: University Press of Virginia, for the U.S. Capitol Historical Society, 1999.
- Hurt, R. Douglas. *The Indian Frontier, 1763–1846*. Albuquerque: University of New Mexico Press, 2002.
- Malin, James, C. “Indian Policy and Westward Expansion.” *Bulletin of the University of Kansas Humanistic Studies*, November 1, 1921.
- Nobles, Gregory H. “Straight Lines and Stability: Mapping the Political Order of the Anglo American Frontier.” *Journal of American History* 80, no. 1 (June 1993): 9–35.
- Ostler, Jeffrey. *The Plains Sioux and U.S. Colonialism from Lewis and Clark to Wounded Knee*. New York: Cambridge University Press, 2004.
- Prucha, Francis Paul. *American Indian Policy in the Formative Years: The Indian Trade and Intercourse Acts, 1780–1834*. Lincoln: University of Nebraska Press, 1970.
- . *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.
- Satz, Ronald N. *American Indian Policy in the Jacksonian Era*. Lincoln: University of Nebraska Press, 1975.
- Schultz, George A. *An Indian Canaan: Isaac McCoy and the Vision of an Indian State*. Norman: University of Oklahoma Press, 1972.
- Trennert, Robert A. *Alternative to Extinction: Federal Indian Policy and the Beginnings of the Reservation System, 1846–51*. Philadelphia: Temple University Press, 1975.
- Turner, Frederick. “The Significance of the Frontier in American History.” *Annual Report of the American Historical Association for the*

Year 1893, 199–227. Washington, D.C.: Government Printing Office, 1894.

Wallace, Anthony. *Jefferson and the Indians: The Tragic Fate of the First Americans*. Cambridge, Mass.: Belknap Press of Harvard University Press, 1999.

Washburn, Wilcomb E., vol. ed. *History of Indian-White Relations*. Volume 4 of *Handbook of North American Indians*. Washington, D.C.: Smithsonian Institution, 1988.

Whaling

Indigenous peoples around the world have harvested whales for subsistence purposes for thousands of years, despite the difficulty and danger involved. Indian tribes on the east and west coasts of North America and Alaska Natives have long hunted whales on the high seas and utilized beached whales for food and tools and for community, cultural, and religious purposes. The first reference to a tribal right to whale in an American treaty was in an 1851 agreement (that the U.S. Senate never ratified) in which the Clatsop tribe in Oregon reserved its right “to pick up whales that may be cast upon the beach.”

Cultural Tradition

Native American peoples hunted whales to sustain both their lives and their cultures. Indigenous peoples have consistently honored these animals upon which they heavily rely. Native subsistence hunting, including whaling, has long been an integral part of traditional indigenous culture. The hunt served to knit together communities and families in a mutual effort to sustain both lives and traditions. The whale-hunting ritual is reflected in the oral traditions of the people. Whaling contributed to group cohesiveness, provided for the distribution of healthy food, and instilled respect for elders who offered vital knowledge and leadership skills.

Native Rights versus International Regulation

Native people in North America pursued whaling lifestyles until Euro-American whalers began to decimate the whale stocks after the 1840s. Today, many whale stocks are in serious decline or are endangered due to commercial overhunting and the effects of pollution. Indian whaling communities were some of the first to sound the alarm over diminishing stocks. For example, the Makahs of the northwestern United States voluntarily ceased hunting gray whales in 1928 in response to low stocks.

By 1946 countries around the world had come to realize that whales were threatened with extinction. Fifteen countries signed the International Convention for the Regula-

tion of Whaling. The goal of the convention was to control commercial whaling and ensure a healthy stock into the future. The convention established the International Whaling Commission (IWC), which set national quotas for harvesting. Over time, the IWC came to be dominated by countries intent on ending whaling altogether. The IWC voted to end commercial whaling around the world in 1982, although the ban has not proved entirely effective. From the outset the convention recognized the importance of whaling to Native groups. As such, it contains an exception for aboriginal subsistence whaling. The IWC allows a limited amount of whaling by various indigenous groups under the aboriginal subsistence whaling exception.

The United States has worked to protect the aboriginal subsistence whaling interests of Alaska Natives by acquiring from the IWC a quota to hunt bowhead whales. In 1977, however, Alaska Natives created the Alaska Eskimo Whaling Commission (AEWC) to enhance protection of their cultural and traditional interests and to fight a proposed IWC ban on bowhead whaling. The U.S. government and the AEWC prevailed in protecting the U.S. bowhead quota. Today, the AEWC monitors and controls the Alaskan bowhead hunt under agreements it has entered into with the United States.

Many Alaska Native villages continue to hunt bowhead whales today, and the Inuit and Inupiat peoples around the North Pole in Alaska, Canada, Greenland, and Siberia pursue a traditional whaling way of life. Canadian tribes along the west coast of Canada continue to press their government for treaty rights to resume whaling.

The Makah Renewal of Whaling

In 1999 an international controversy erupted over the determination of the Makah Nation to resume hunting of the gray whale. Most of the opponents of the Makah hunt objected for moral reasons. In contrast, conservationists are interested in the continued existence of an entire species. And in the case of the gray whale at least, species conservation is not an issue. The gray whale population in question had rebounded strongly, earning its de-listing per the U.S. Endangered Species Act. In fact, gray whales are now thought to be more numerous than ever before. Once the gray whale was taken off the endangered species list in 1994, the Makah Nation immediately commenced efforts to resume its whaling traditions.

The tribe had reserved the right to whale in an 1855 treaty. The United States at the time had agreed that the

Makahs had “the right of taking fish and of whaling or sealing.” The treaty took shape when the United States sought to buy land from the tribe. The tribal representatives made it clear that the most important point from their perspective was the protection of their fishing and whaling rights. In their words, they relied on the “whale and halibut” for their livelihood. The U.S. representatives heard the tribal demands and promised that the Makahs could keep their whaling culture and that the United States would recognize those rights and protect the rights under federal law. The government even promised to support the Makahs in these endeavors and to provide them with new equipment to become more effective whalers and fishers.

In 1995 the United States honored its treaty promise and began supporting the Makahs in applying to the IWC for a quota to hunt gray whales. This effort provoked opposition from both the public, particularly among environmental activists, and from within the IWC. Despite the controversy, in October 1997 an IWC quota for gray whales was approved. The Makahs retained the right to take up to twenty whales over a five-year period.

In May 1999 the Makahs landed their first whale in over seventy years. Following traditional methods of whaling, they had built a hunting canoe, trained rowers, and harpooned a whale. The U.S. government, however, insisted that the Makahs shoot the whale after harpooning it to ensure a quick and humane kill. Despite the federal involvement, the Makahs’ success produced an outpouring of community pride.

Opposition persisted, however, and opponents of Makah whaling filed lawsuits, achieving temporary success in stopping Makah whaling. Court decisions have further delayed the resumption of whaling, but the Makah people continue to fight to preserve the right to pursue what they see as one of their cultural and religious traditions.

In 2008 five Makah men conducted what was termed a “rogue” hunt, killing a gray whale. Federal prosecutors indicted the men for conspiracy, unlawful taking of a marine mammal, and unauthorized whaling. Three of the men pleaded guilty, and two were convicted. The negative publicity the hunt incited may have hurt the Makah Nation in its efforts to resume its whaling traditions.

See also *Alaska Natives; Canada, Indian Policy of; Fishing, Hunting, and Gathering Rights.*

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BIBLIOGRAPHY

- Alaska Eskimo Whaling Commission, http://www.uark.edu/misc/jcdixon/Historic_Whaling/AEWC/AEWC.htm.
Anderson v. Evans, 314 F.3d 1006 (9th Cir. 2002).
 Caulfield, Richard A. *Greenlanders, Whales and Whaling: Sustainability and Self-Determination in the Arctic*. Hanover, N.H.: Dartmouth University Press, 1997.
 Freeman, Milton M.R., et al. *Inuit, Whaling, and Sustainability*. Lanham, Md.: Alta Mira, 1998.
 International Convention for the Regulation of Whaling, Dec. 2, 1946, 62 Stat. 1716, T.I.A.S. No. 1849, 161 U.N.T.S. 72.
 International Whaling Commission, <http://www.iwcoffice.org/>.
 Kirk, Ruth. *Tradition and Change on the Northwest Coast: The Makah, Nuuchah-nulth, Southern Kwakiutl and Nuxalk*. Seattle: University of Washington Press, 1986.
 McMillan, Alan D. *Since the Time of the Transformers: The Ancient Heritage of the Nuuchah-nulth, Ditidaht, and Makah*. Seattle: University of Washington Press, 1999.
Metcalf v. Daley, 214 F.3d 1135 (9th Cir. 2000).
 Miller, Robert J. “Exercising Cultural Self-Determination: The Makah Indian Tribe Goes Whaling.” *American Indian Law Review* 25 (2002): 165–273.
 O’Leary, Beth Laura. “Aboriginal Whaling from the Aleutian Islands to Washington State.” In *The Gray Whale: Eschrichtius Robustus*, edited by Mary Lou Jones et al. New York: Academic Press, 1984.
 “Treaty with the Makah,” January 31, 1855, art. 12, 12 Stat. 939. Reprinted in *Indian Affairs: Laws & Treaties* 2 (1904): 682.
 Wenzel, George. *Animal Rights, Human Rights: Ecology, Economy and Ideology in the Canadian Arctic*. Toronto: University of Toronto Press, 1991.

Wheeler, Burton K.

In 1934 Burton K. Wheeler (1882–1975) became a co-sponsor of the Wheeler-Howard Act, also known as the Indian Reorganization Act (IRA). The act is commonly considered the keystone of President Franklin D. Roosevelt’s Indian New Deal.

Wheeler was born in Hudson, Massachusetts. After graduating from the University of Michigan Law School, Wheeler settled in Montana where he started a law practice and became involved in state politics. He was elected to the U.S. Senate in 1923. In 1924 he was the vice presidential running mate of Senator Robert M. LaFollette of Wisconsin on the Progressive Party ticket. In the Senate, Wheeler was part of a group of reformers who often focused on Indian affairs. Wheeler and his colleagues fought against policies aimed at opening reservation lands to oil and mineral exploration and sought to protect reservation water rights. In 1934, when he was chair of the Senate Indian Affairs committee, Commissioner of Indian Affairs John Collier asked Wheeler to introduce the IRA into Congress, which, among other things, ended the allotment of Indian lands and pro-

vided authority for tribes to establish tribal governments. Evidently, Wheeler failed to study the bill extensively; he later found that he disagreed with some of the reforms it proposed. Wheeler feared that provisions for tribal government and the return of tribal land ownership would keep Indians segregated from the mainstream of American life. His opposition led to a series of amendments that made the final bill less far-reaching than in its original form. In 1937 Wheeler introduced a bill to repeal the IRA altogether. This bill never passed, but Wheeler continued to oppose many of Collier's reforms until he left the Senate in 1947.

See also *Collier, John; Indian New Deal; Indian Reorganization Act (1934); Mining and Mineral Rights; Roosevelt, Franklin D.; Water Rights.*

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BIBLIOGRAPHY

- Philp, Kenneth. *John Collier's Crusade for Indian Reform*. Tucson: University of Arizona Press, 1977.
- Wheeler, Burton K., and Paul Healy. *Yankee from the West*. Garden City, N.Y.: Doubleday, 1962. Reprint, New York: Octagon Books, 1977.

Wheeler-Howard Act (1934)

See *Indian Reorganization Act (1934)*.

Whipple, Henry B.

Henry B. Whipple (1822–1901) was a clergyman who spent much of his life working on behalf of Native Americans. Born in Adams, New York, Whipple attended Oberlin College and was ordained as a minister in the Episcopal Church in 1849. In 1859 he was elected as the first bishop of the Episcopal Church in Minnesota, a position he held until his death. During his four decades as bishop, Whipple presided over the growth of his denomination among white settlers while also promoting missions to the Ojibwes (Anishinabes) and Dakotas (Sioux) in Minnesota and neighboring Dakota Territory.

Whipple became widely known for his interest in missions to the Indians and reform of Indian policy. He traveled extensively and made addresses on these issues throughout the United States and in Europe. His reputation for dealing fairly with the Indians led many Native people to refer to him as "Straight Tongue"; it also earned him the enmity of many settlers, especially after the United States–Dakota War of 1862. At the end of this conflict, the government con-

demned 303 members of the Santee tribe to execution by hanging. Many believe Whipple's influence was a key factor in President Abraham Lincoln's eventual decision to commute the sentences of all but 39 of those condemned.

In the aftermath of the Dakota War, Whipple continued to lobby President Lincoln for reform of U.S. Indian policy. In 1876 Whipple served as a member of the Sioux Commission, which negotiated the controversial cession of the Black Hills by the Sioux. Whipple's missionary commitment and good works proved effective among the Ojibwe and Lakota peoples of the Northern Plains. Even today, the Episcopal Church enjoys a degree of influence amongst these tribes.

See also *Lincoln, Abraham; Religious Organizations and Indian Policy; United States–Dakota War of 1862.*

Mark S. Joy

BIBLIOGRAPHY

- Mardock, Robert W. *The Reformers and the American Indian*. Columbia: University of Missouri Press, 1971.
- Whipple, Henry B. "Civilization and Christianization of the Ojibways in Minnesota." *Collections of the Minnesota Historical Society* 9 (1901): 129–142.
- . *Lights and Shadows of a Long Episcopate: Being Reminiscences and Recollections of the Right Reverend Henry Benjamin Whipple, Bishop of Minnesota*. New York: Macmillan, 1899.

Whitman Massacre (1847)

The November 29, 1847, murders of frontier missionaries Marcus and Narcissa Whitman and others near the confluence of the Walla Walla and Columbia Rivers brought the Oregon Territory under tighter U.S. control and triggered a chain of events that forced the Columbia Plateau Indians onto reservations.

The Whitmans were New England missionaries sent west by the American Board of Commissioners for Foreign Missions (ABCFM), a joint Presbyterian, Congregational, and Dutch Reformed organization that dispatched devotees to India, the Sandwich Islands (Hawaii), Siam (Burma), and the Middle East (Turkey and Palestine). The Whitman Mission was an important outpost on the Oregon Trail. The couple dispensed agricultural advice, medical treatments—Marcus was a physician—and goods to Indians while proselytizing to them.

During the period when Oregon was still jointly occupied by the United States and England, infectious disease from fur traders had threatened the territory's Indian popu-

lations. When measles spread down the trail to the mission, decimating the nearby Cayuses, the Indians blamed Dr. Whitman. In addition, the Cayuses resented the U.S. expansion into their region, and relations had deteriorated because of the Protestants' inflexibility, the demise of the fur trade, and a language barrier.

In the massacre, sixty men attacked and killed the Whitmans, along with twelve other people, and took fifty-three hostages. At the time, Oregon was under a provisional government following the 1846 Anglo-U.S. partition of the territory. The murders served the cause of free-soil north-erners who wanted to counter southern expansion (that is, slaveholding) into the Mexican Cession. President James K. Polk signed a bill in 1848 making Oregon the first U.S. territory west of the Rockies.

The Cayuse War of 1848–1850 initially centered on obtaining the release of hostages, but later escalated with additional U.S. settlement. The Americans lacked enough money or people for all-out war, but they used the Whitman massacre to justify raids on area tribes. At the 1850 trial in Oregon City for the massacres, whites lynched the five Cayuse defendants. Washington Territory was carved out of Oregon in 1853, and its first governor, Isaac Stevens, forced the remaining Plateau Indians onto reservations. The Cayuses ended up on the Umatilla reservation east of Pendleton, Oregon, in 1855, after the intertribal coalition to which they belonged dissolved. Oregon superintendent of Indian affairs Joel Palmer accompanied Stevens to Walla Walla to negotiate the treaty that placed the Cayuses on the reservation. The Yakamas and others resisted, and their war in 1856 merged with conflicts around Puget Sound and Oregon's Rogue River, lasting until 1858. Northwest expansion would have occurred regardless of the Whitmans, but their martyrdom hastened and helped sanction U.S. settlement.

See also *Cayuse War (1848–1855); Palmer, Joel; Stevens, Isaac Ingalls; Yakama War (1855–1856).*

Cameron Addis

BIBLIOGRAPHY

- Addis, Cameron. "The Whitman Massacre: Religion and Manifest Destiny on the Columbia Plateau, 1809–1858." *Journal of the Early Republic* 25, no. 2 (Summer 2005).
- Confederated Tribes of the Umatilla Indian Reservation. "Our History and Culture: Part 2." www.umatilla.nsn.us/hist2.html.
- Drury, Clifford. *Marcus Whitman, M.D.: Pioneer and Martyr*. Caldwell, Idaho: Caxton Press, 1937.
- . *Marcus and Narcissa Whitman and the Opening of Old Oregon*. 2 vols. Glendale, Calif.: Arthur H. Clark Company, 1973.

Wilbur, Ray Lyman

Ray Lyman Wilbur (1875–1949) served as secretary of the interior during the administration of Herbert Hoover (1929–1933). Born in Iowa, Wilbur studied at Stanford University and earned a medical degree at Cooper Medical College in 1899. A prominent Republican, he worked with Hoover in the U.S. Food Administration during World War I (1914–1918) and later became President Warren G. Harding's personal physician. Hoover nominated Wilbur for the top position at the Department of the Interior on March 5, 1929.

Wilbur was genuinely interested in Indian affairs, particularly health and education, and had worked with the Indian Rights Association and Indian Defense Association of Central and Northern California. He took office with a firm conviction that assimilation promised Indians the only real antidote to extinction. "The fundamental aim of the Bureau of Indian Affairs," Secretary Wilbur wrote in a March 23, 1929, memorandum to President Hoover, "shall be to make of the Indian a self-sustaining, self-respecting American citizen just as rapidly as this can be brought about. The Indian stock is of excellent quality. It can readily merge with that of the nation."

During his four-year tenure as interior secretary, Wilbur fought for increased appropriations for the Indian Office and supported the efforts of Commissioner of Indian Affairs Charles J. Rhoads to implement the various provisions of the Meriam Report—a difficult proposition given the economic crisis that gripped the nation at the time.

Wilbur served in various administrative positions at Stanford University until his death at the age of seventy-four on June 26, 1949. He was buried in Palo Alto, California.

See also *Assimilation and Acculturation; Interior, U.S. Department of the; Meriam Report; Rhoads, Charles J.*

Thomas A. Britten

BIBLIOGRAPHY

- Britten, Thomas A. "Hoover and the Indians: The Case for Continuity in Indian Policy, 1900–1933." *The Historian* (Spring 1999): 519–538.
- Kvasnicka, Robert M., and Herman J. Viola. *The Commissioners of Indian Affairs, 1824–1977*. Lincoln: University of Nebraska Press, 1979.
- Tyler, S. Lyman. *A History of Indian Policy*. Washington, D.C.: Bureau of Indian Affairs, 1973.
- Wilbur, Ray Lyman. "Memorandum to Herbert Hoover, 23 March 1929," *Herbert Hoover Presidential Papers, Cabinet Offices, Interior, Indian Office, January–June 1929*. West Branch, Iowa: Herbert Hoover Library, n.d.

Wildcat

Wildcat, or Coacoochee (1808–1856), a charismatic and ambitious diplomat and politician, was the last major Seminole tribal leader to surrender to U.S. forces. Wildcat remains important to modern Seminole tradition, symbolizing their fighting spirit and desire for self-determination. General Thomas Sidney Jessup considered him to be the most skilled Seminole war strategist.

Born near Apopka Lake, Florida, Wildcat was the son of Chief Emathla. He became one of the primary tribal leaders in the Second Seminole War (1835–1842), at one point escaping from prison at Ft. Marion to continue fighting in key campaigns, including the Battle of Lake Okeechobee (1837). After removal to Indian Territory in the early 1840s, Wildcat's people were forced to live among the larger Creek Nation, who threatened to confiscate the Seminoles' African slaves and allies.

Upset at the prospect of Creek domination, Wildcat traveled among the Southern Plains tribes in the late 1840s to gain support for a traditionalist tribal confederacy that he would lead in resisting U.S. expansion. By 1850 the Seminole chief had persuaded several Kickapoo bands under Chief Papicua and African Maroons under John Horse to join his group in migrating to Mexico. In 1852 Wildcat secured agreements with Mexican officials to establish a military colony at Nacimiento, Coahuila, to protect the Mexican frontier against incursions. Over several years, Wildcat's men participated in forty campaigns with the Mexican army against raiding Apaches, Comanches, and American-backed filibusterers. Wildcat died from smallpox in 1856. By 1861 the last of his people had migrated back to Indian Territory.

See also *Horse, John; Indian Territory; Removal; Second Seminole War (1835–1842).*

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BIBLIOGRAPHY

- Mahon, John K. *History of the Second Seminole War, 1835–1842*. Rev. ed. Gainesville: University Presses of Florida, 1991.
- Missall, John, and Mary Lou Missall. *The Seminole Wars: America's Longest Indian Conflict*. Gainesville: University Presses of Florida, 2004.

Wilkinson, James

James Wilkinson (1757–1821) was a Revolutionary War hero and adventurer who, despite rising to the position of com-

mander in chief of the U.S. Army, ended a career marked by scandal in disgrace.

After the War of Independence, Wilkinson moved to Kentucky and agitated for its independence from Virginia. He also conspired with the Spanish government at New Orleans against the government of Kentucky by negotiating a fictitious and illegal trade agreement between them. In 1787 he declared allegiance to Spain. Despite this, he rejoined the U.S. Army in 1791 and participated in various Indian campaigns, including the Battle of Fallen Timbers (August 20, 1794).

After the United States took possession of the Louisiana Territory in 1803, President Thomas Jefferson appointed Wilkinson governor in 1805 and instructed him to establish peace and favorable trade relations with the tribes in the territory. Wilkinson wanted to displace British and Spanish trade with tribes in the territory for economic and national purposes. He feared the two European powers might ally with tribes to threaten American interests in the territory.

Wilkinson sent army lieutenant Zebulon Pike out on two expeditions to explore portions of the territory, one in 1805 to search for the headwaters of the Mississippi and to investigate the extent of British influence among tribes in the upper Midwest and another in 1806 to determine the status of relations between the Spanish and the Comanches and other Indian tribes on the southern Plains.

Wilkinson was removed from office in 1807, after he was charged with collaborating with Aaron Burr in a conspiracy to establish an independent nation in the West. To save himself, Wilkinson revealed Burr's plan to Jefferson, but he faced a court martial over the scandal in 1811 in which he was found not guilty. He then served as a major general in the War of 1812. Wilkinson was finally removed from service in 1814 after escaping another military inquiry. He died in Mexico City in 1821.

See also *American Revolutionary War (1775–1783); Fallen Timbers (1794); Battle of; Louisiana Purchase; War of 1812 (1812–1814).*

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BIBLIOGRAPHY

- Hay, Thomas Robson, and M. R. Werner. *The Admirable Trampeter: A Biography of General James Wilkinson*. Garden City, N.Y.: Doubleday, Doran, and Company, 1941.
- Philbrick, Francis S. *The Rise of the West, 1754–1830*. New York: Harper and Row, 1965.
- Shreve, Royal Ornan. *The Finished Scoundrel: General James Wilkinson*. Indianapolis, Ind.: Bobbs-Merrill Company, 1933.

Williams v. Lee (1959)

In *Williams v. Lee*, 358 U.S. 217 (1959), the Supreme Court, citing foundational principles of federal Indian law, concluded that state courts do not have jurisdiction over claims arising in Indian Country in which the defendant is a reservation Indian. Legal scholar Charles Wilkinson considers the Court's decision the beginning of the "modern era of federal Indian law" (*American Indians, Time, and the Law*, 1987, 1).

In *Williams*, non-Indian owners and operators of a trading post on the Navajo reservation had filed an action in Arizona state court against members of the Navajo Nation for goods sold on credit. The Court held that state law is preempted by federal law where the imposition of state law would infringe "on the right of reservation Indians to make their own laws and be ruled by them" (*Williams*, 271). The decision resurrected the Marshall Court's presumption in *Worcester v. Georgia* (1832) that state laws "have no force in Indian Country." The *Williams* ruling was the first modern decision to recognize the legal viability of tribal laws and tribal courts by acknowledging that the Navajo Nation's Court of Indian Offenses had jurisdiction over the case.

The *Williams* "infringement" test is one of two independent common law tests for determining whether state laws apply in Indian Country, the other being the federal Indian law preemption test. The *Williams* test operates as a bright-line bar to the imposition of state law and jurisdiction whenever their application interferes with internal tribal affairs, including without limitation the right to decide tribal membership, make tribal laws, or operate tribal governments. Despite the relative ease of applying the *Williams* test, the Supreme Court has done so to invalidate the operation of state law or jurisdiction on only a few occasions, such as in *Oklahoma Tax Commission v. Sac & Fox Nation* (1993) to strike down a state income tax as applied to reservation Indians.

According to some commentators, including legal scholar Alex Skibine, the Court appears to have "merged" the *Williams* infringement test into the preemption test to allow state interests a better chance to outweigh federal and tribal interests in this area (Skibine, "Redefining the Status of Indian Tribes," 2006, 684–685). Although direct attempts by states or local governments to grab control over tribal government activities will still fail under the infringement test, indirect measures, such as the imposition of state taxes on nonmembers who enter Indian Country (leading to double taxation), often succeed, given the favorable treatment of states' rights by the Court in recent decades.

The impact of *Williams* goes beyond the question of whether state law applies in Indian Country. Supreme Court recognition of the viability and legitimacy of tribal law and courts helped to reinvigorate tribal governments in the twentieth century. The Court's recognition of the territorial jurisdiction of the Navajo Nation also was an important step toward the larger recognition of tribal jurisdiction over Indian lands and people. In addition, the *Williams* decision served as a powerful foil to the congressional policy favoring termination of the tribal-federal trust relationship.

See also *Termination and Restoration; Tribal Courts; U.S. Supreme Court and Indian Policy, 1935–1965; Worcester v. Georgia* (1832).

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BIBLIOGRAPHY

- Oklahoma Tax Commission v. Sac & Fox Nation*, 508 U.S. 114 (1993).
- Pommersheim, Frank. *Braid of Feathers: American Indian Law and Contemporary Tribal Life*. Berkeley: University of California Press, 1995.
- Skibine, Alex Tallchief. "Redefining the Status of Indian Tribes within 'Our Federalism': Beyond the Dependency Paradigm." *Connecticut Law Review* 38 (May 2006): 667–695.
- Tsosie, Rebecca. "Separate Sovereigns, Civil Rights, and the Sacred Text: The Legacy of Justice Thurgood Marshall's Indian Law Jurisprudence." *Arizona State Law Journal* 26 (Summer 1994): 495–533.
- Wilkinson, Charles F. *American Indians, Time, and the Law: Native Societies in a Modern Constitutional Democracy*. New Haven, Conn.: Yale University Press, 1987.

Williams, Eleazar

Eleazar Williams (1788–1858), a Caughnawaga Mohawk, attempted to create an Iroquois (Haudenosaunee) state west of Lake Michigan. He was a descendant of Reverend John Williams, who had been captured in a French and Indian raid on Deerfield, Massachusetts, in 1704. Eleazar grew up at Khanawake near Montreal, but his father, Tehoragwanegen (Thomas Williams), later sent him to Massachusetts, where he studied under various Protestant clergymen from 1800 to 1804.

During the War of 1812, the federal government requested that Williams use his influence as a missionary to the St. Lawrence Iroquois to keep the Canadian Indians neutral, to which Williams agreed. He also provided American officials with intelligence on British troop movements. After the war, Williams became a missionary to the Oneidas, one of the six nations of the Iroquois confederacy, in New York. Historians have credited him with developing the plan to move the

Iroquois to the Michigan Territory. In 1821 Williams and a delegation of Iroquois and Stockbridge, who lived among the Oniedas, traveled to Green Bay to negotiate a land purchase from the Menominees. Christian Oneidas had considered migration west to be a solution to increasing pressures on their land. Williams expanded upon this plan, however, claiming that he intended to create an Iroquois state in the Old Northwest territory. He attracted the support of those who were interested in removing the New York Indians, such as the Ogden Land Company, but he also earned the enmity of Iroquois opposed to removal.

Williams settled near Green Bay in 1823 and married Mary Jourdain, a woman of French and Menominee heritage. He briefly entered the national spotlight in 1853, when he claimed to be the lost Dauphin of France. He died five years later.

See also *Missions and Missionaries; Religious Organizations and Indian Policy; Removal.*

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BIBLIOGRAPHY

- Eleazar Williams Papers, 1758–1858. Newberry Library, D'Arcy McNickle Center for American Indian History, Ayer Collection, Chicago, Illinois.
- Hauptman, Laurence M., and L. Gordon McLester III. *Chief Daniel Bread and the Oneida Nation of Indians of Wisconsin*. Norman: University of Oklahoma Press, 2002.
- Horsman, Reginald. "The Wisconsin Oneidas in the Preallotment Years." In *The Oneida Indian Experience: Two Perspectives*, edited by Jack Campisi and Laurence M. Hauptman, 65–82. Syracuse: Syracuse University Press, 1988.

Williams, Roger

While best known as a champion of religious freedom and the founder of Rhode Island, Roger Williams (1603–1683) also demonstrated that just and equitable relations between European Americans and Native Americans could have been nurtured and sustained. Unlike most European colonizers of North America, Williams rejected the doctrines of discovery and conquest. European empires claimed exclusive and superior rights to extinguish Indian title and to transfer Native lands to European colonizers. This thus led Williams to challenge the legal foundation of the English colonial charters in North America. Ultimately, Williams was banished from Massachusetts Bay colony as much for insisting that Native peoples were the true owners of all they possessed as for his insistence on religious liberty.

In 1636 he escaped deportation to England by fleeing Massachusetts. Williams would not have survived this wintertime ordeal without the aid of the Wampanoags. He acquired land from Massasoit, their chief sachem. When Plymouth colony claimed that he still resided within their territory, Williams moved again. The Narragansett sachem Canonicus befriended him almost as an adopted son. Soon afterward Williams established a trading post.

From this remote vantage point he began an intensive study of Algonquin languages, customs, and sacred ways. In 1643 he published his findings in a book entitled *A Key into the Language of America*. Many of his findings and admonitions disturbed the English settlers. He rejected their claims of cultural superiority and asserted that in many exchanges the Indians acted with more Christian virtue than the colonists. Williams also rebuked attempts to evangelize or convert Indians as religious persecution. In recognizing their common humanity, he championed "soul liberty" for Natives and Europeans alike.

In contrast to Plymouth and Massachusetts Bay, which did not obtain title from the Indians before they began their plantation, Williams insisted that the only legal and moral method of obtaining Indian land had to come from their free consent. Williams discovered that although Native Americans had conceptions of land, resources, and ownership that differed from Europeans, Indian peoples had definite ideas about the extent and derivation of their commonwealth.

Unfortunately, the growing English population and the desire for land led to territorial encroachments, jurisdiction disputes, and devastating warfare with Native communities. Williams decried that land had become "one of the gods of New England." To forestall the outbreak of King Philip's War (1675–1676), he offered himself up as a hostage to the Wampanoags to guarantee safe passage for their sachem Metacomet (Philip), then in Massachusetts on diplomatic mission. Once war broke out, Williams remained loyal to the English and weakened the Native cause by helping to prevent an alliance between Narragansetts and Wampanoags.

This bloody conflict ended decades of his tireless efforts to forge peaceful relationships between Indians and English colonists. But his legacy remains as one of the few seventeenth-century colonial New Englanders who achieved some success in bridging the cultural gap between European Americans and American Indians.

See also *Discovery, Doctrine of; Rhode Island, Indian Policy of.*

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BIBLIOGRAPHY

- Ernst, James E. *The Political Thought of Roger Williams*. Port Washington, N.Y.: Kennikat Press, 1966.
- Gaustad, Edwin S. *Roger Williams*. Lives and Legacies Series. New York: Oxford University Press, 2005.
- James, Sydney V. *Colonial Rhode Island: A History*. New York: Charles Scribner's Sons, 1979.

Wilson, Richard

In April 1972, Richard "Dick" Wilson (1935–1990), a plumber and father of six, served as Oglala Sioux tribal chairman of the Pine Ridge reservation in South Dakota during the Wounded Knee occupation in 1973.

Initially, Wilson enjoyed much support on the reservation. Soon after the election, however, Pine Ridge residents alleged he had bribed voters with alcohol and money supplied by non-Indian bootleggers, businessmen, and corrupt Bureau of Indian Affairs (BIA) officials. The controversy surrounding Wilson's election demonstrated internal divisions between traditional and progressive members of the Pine Ridge community. It also exposed community frustration over the corruption that resulted from the failed policies of the BIA.

After Wilson took office, he was accused of using his authority to initiate a pay raise for himself, engaging in cronyism, and using tribal funds for fraudulent purposes. Wilson denied the charges. He also publicly denounced the work of the American Indian Movement (AIM), including its Trail of Broken Treaties public protest and occupation of the BIA headquarters. Wilson seemed to many to have less interest in Indian rights than in furthering his own career. Formal opposition to his tenure increased, and by February 1973, residents and council members were successful in calling for an impeachment hearing. In retaliation, Wilson suspended the tribal council, dismissed the tribal vice chairman, banned AIM members from Pine Ridge, and established an armed guard, effectively transforming the reservation into a military compound.

Wilson was acquitted of all charges at his impeachment hearing, held February 22–23, 1973. (It was later discovered that he had appointed and bribed the judge.) The acquittal provoked the seventy-one-day Wounded Knee occupation, an Oglala Sioux Civil Rights Organization– and AIM-led protest of government-sponsored abuses and broken promises, of which Wilson's administration was an obvious reminder. During the Wounded Knee occupation, Wilson aggravated the situation, claiming it was a communist plot

and using his handpicked police force to impose his will on the reservation. He advocated an all-out assault by U.S. marshals against the protestors; blocked the burial of Frank Clearwater, a protest leader; and obstructed medical relief efforts for the protestors.

Wilson retained tribal leadership after the Wounded Knee occupation and continued to negotiate what was perceived to be anti-Indian agreements, including ceding a portion of Sioux land to the U.S. government for the expansion of Badlands National Park. His actions exacerbated tensions between reservation factions, thus prolonging the Pine Ridge civil conflict. He was defeated for reelection to tribal chair in 1976.

See also *American Indian Movement (AIM)*; *Bureau of Indian Affairs (BIA)*; *Indian Reorganization Act (1934)*; *Means, Russell*; *Wounded Knee (1973)*, *Occupation of*.

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BIBLIOGRAPHY

- Reinhardt, Akim D. *Ruling Pine Ridge: Oglala Lakota Politics from the IRA to Wounded Knee*. Lubbock: Texas Tech University Press, 2007.
- Smith, Paul Chaat, and Robert Allen Warrior. *Like a Hurricane: The Indian Movement from Alcatraz to Wounded Knee*. New York: New Press, 1996.
- Wagner-Pacifici, Robin Erica. *Theorizing the Standoff: Contingency in Action*. Cambridge, England: Cambridge University Press, 2000.
- Wilson, James. *The Earth Shall Weep: A History of Native America*. New York: Atlantic Monthly Press, 1999.

Winans, United States v. (1905)

See United States v. Winans (1905).

Winema

Winema (c.1840–1920), also known as Toby Riddle, played a major role in both the Modoc War of 1872–1873 and the formation of Indian policy during the nineteenth century. She was born in the early 1840s and came of age during turbulent times for her people. She was cousin to Kintpuash, leader of the Modocs who resisted the United States in the 1860s and 1870s. At age sixteen, Winema defied her father and married Frank Riddle, a Kentuckian who moved to California during the Gold Rush.

Marrying Riddle positioned Winema between worlds. She played an important role as the Modocs entered into treaty negotiations and eventually war with the United States. Winema served as interpreter and mediator between the Modocs, United States officials, and the U.S. Army.

Throughout the Modoc War, Winema traveled between the camps, carrying messages and negotiating with family members, government officials, and military leaders. When Kintpuash and his men killed U.S. peace commissioners sent by President Ulysses S. Grant, Winema put her own life in jeopardy to save severely wounded commissioner Alfred Meacham.

At war's end Winema and her family agreed to participate in a lecture circuit in the Northeast that Meacham created. Winema became ill, forcing her return to Oregon. Because of her role in saving his life, Meacham petitioned Congress for a military pension, which Winema received in 1890 in the amount of \$25 a month. She was one of few women to receive such a pension during the nineteenth century. Winema lived on the Klamath reservation with her family until her death on February 17, 1920.

See also *Indian Peace Commission; Meacham, Alfred B.; Modoc War (1872–1873).*

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BIBLIOGRAPHY

- Meacham, Alfred B. *Wi-Ne-Ma and Her People*. 1876. Reprint, New York: Kraus Press, 2008.
- Murray, Keith. *The Modocs and Their War*. Norman: University of Oklahoma Press, 1959.
- Riddle, Jeff. *The Indian History of the Modoc War*. San Francisco: Marnell and Co., 1914.

Winnemucca, Sarah

Sarah Winnemucca (1844–1891), a Northern Paiute, was an advocate for improved treatment of Paiutes and other Indian peoples across the nation. She was born in western Nevada in the Humboldt River Valley in 1844. She moved with her family to San Jose, California, ten years later. Winnemucca lived with a non-Indian family in 1858 and learned English, but she returned to her people in 1860. Although she was accepted into a local Catholic school, she attended for only one month before the non-Indian students demanded her expulsion. Unable to attend school, she took a job as a servant to a wealthy white family.

In 1860 the Paiutes went to war against the United States because white settlers were encroaching on Indian lands. Unsuccessful in their military campaign, the Paiutes of Nevada and California were forcibly moved to a reservation outside Reno, Nevada. Because Winnemucca spoke English, she began working as an interpreter between the Paiutes and the U.S. Army. In 1872 Winnemucca along with other Paiutes

was relocated to the Malheur reservation in Oregon. During the 1878 Bannock War, she again served as an interpreter.

In 1879 Winnemucca began touring the United States, advocating for improved conditions for all Indian people. She became nationally known as the first American Indian to secure a copyright and published her autobiographical work, *Life Among the Paiutes: Their Wrongs and Claims*, in 1883. Winnemucca was inducted into the Nevada Writers Hall of Fame in 1993. In 2005 the state of Nevada placed a statue of her in the National Statuary Hall of the U.S. Capitol.

See also *Indian Rights Movements; Paiute (Pyramid Lake) War; United States–Indian Wars (1848–1891).*

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BIBLIOGRAPHY

- Egan, Ferol. *Sand in a Whirlwind: The Paiute Indian War of 1860*. Reno: University of Nevada Press, 1985.
- Zanjani, Sally. *Sarah Winnemucca*. Lincoln: University of Nebraska Press, 2004.

Winneshiek

Winneshiek (1812–1872) was a government-selected Winnebago chief during the removal and early reservation era. His dealings with the U.S. government demonstrate how federal officials manipulated tribal relations to secure land cessions from Indian tribes.

The Winnebagoes (Ho-Chunks) once claimed much of present-day southern Wisconsin, but ceded much of their territory in treaties signed with the United States in 1825, 1829, and 1832. In an attempt to acquire more land, the United States invited a delegation of Winnebagoes, including Winneshiek, to Washington, D.C., in 1837. Although the delegates did not have the authority to cede land, they signed a treaty with the United States giving away what remained of the tribe's territory in Wisconsin. The 1837 treaty divided the Winnebagoes, with Winneshiek's band favoring abiding by its negotiated treaties and other bands opposing their removal out of Wisconsin. The U.S. government designated Winneshiek as the head chief of the tribe in 1845.

Following the 1837 treaty, Winneshiek's followers were moved to Iowa. In 1846 they were relocated to a reservation in central Minnesota. Winneshiek again traveled to Washington, D.C., in 1855 to negotiate a treaty that established a Winnebago reservation at Blue Earth in southern Minnesota; four years later, U.S. officials approached Winneshiek to sign a treaty ceding half that reservation.

When Winneshiek refused to sign, the federal government stripped him of his chieftaincy and awarded it to a Winnebago who was willing to sign the treaty. In 1862 Winneshiek joined his band on a forced relocation to present-day South Dakota. After several months, Winneshiek's band moved to a reservation in Nebraska that proved to be their final destination. Winneshiek attempted to return to his birthplace in Portage, Wisconsin, in 1872, but he died during the trip.

See also *Removal*; *Yellow Thunder*.

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BIBLIOGRAPHY

Diedrich, Mark. *Ho-Chunk Chiefs: Winnebago Leadership in an Era of Crisis*. Rochester, Minn.: Coyote Books, 2001.

Winters v. United States (1908)

In *Winters v. United States*, 207 U.S. 564 (1908), the Supreme Court affirmed a district court ruling that the water rights of the Native Americans on the Fort Belknap reservation took precedence over those of settlers living nearby.

In 1905, settlers living upstream of the Fort Belknap reservation in Montana diverted nearly all of the water in the Milk River. The United States sued the settlers on behalf of the Gros Ventre and Assiniboiné Indians living on the reservation. Federal district court judge William H. Hunt determined that the 1888 agreement creating the reservation implicitly reserved water to accomplish the purposes of the reservation. Thus the Indians had water rights, dating from the creation of the reservation, that superceded those of the settlers.

The *Winters* decision challenged the doctrine of prior appropriation, which prevailed in water law in western states. Prior appropriation doctrine's "first in time, first in right" philosophy granted water rights based on the date and amount of water diverted for "beneficial" use. The *Winters* ruling, by contrast, recognized reserved water rights that existed whether the water was used or currently needed. Before the reservation was created, the Court said, the tribe "had command of the lands and the waters" and would not have given up the water that made the reservation land valuable.

The Court's ruling did not immediately increase Indians' control of or use of water. Following the Supreme Court decision in *Arizona v. California* (1963), however, Indians began to assert their water rights more forcefully. *Arizona v. California* not only affirmed *Winters*, it also determined that

"enough water was reserved to irrigate all the practicably irrigable acreage on the reservations." Starting in 1978, Indian tribes began entering into settlements with other water users in order to avoid litigation. In settlement agreements, which are approved by Congress, tribes generally forfeit their reserved rights in exchange for a specific quantity of water plus financial or other assistance in developing that water.

See also *U.S. Supreme Court and Indian Policy, 1871–1934*; *Water Rights*.

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BIBLIOGRAPHY

Colby, Bonnie G., et al. *Negotiating Tribal Water Rights: Fulfilling Promises in the Arid West*. Tucson: University of Arizona Press, 2005.

Hundley, Norris, Jr. "The *Winters* Decision and Indian Water Rights: A Mystery Reexamined." *Western Historical Quarterly* 13 (January 1982): 17–42.

Shurts, John. *Indian Reserved Water Rights: The Winters Doctrine in Its Social and Legal Context, 1880s–1930s*. Norman: University of Oklahoma Press, 2000.

Wirt, William

William Wirt (1772–1834), U.S. attorney general from 1817 to 1829, also represented the Cherokee Nation in *Cherokee Nation v. Georgia* (1831) and *Worcester v. Georgia* (1832), two landmark Supreme Court cases.

Wirt was admitted to the Virginia bar as a young man and attracted public notice as one of the prosecution attorneys in the United States' 1807 treason case against Aaron Burr. In 1817 President James Monroe appointed Wirt attorney general, a position that allowed him to participate in several important constitutional cases before the Supreme Court.

As attorney general Wirt argued that the Cherokee Nation did not have the right, without the approval of the U.S. Congress, to tax American traders doing business within the Indian nation's borders. He contended that Cherokee sovereignty did not have standing equal to that of the United States and that through treaties, the Cherokee government had placed itself under the protection of the United States, which had the power to regulate trade between the two nations (*Official Opinions of the Attorneys Generals of the United States*, 1 Op. Atty. Gen. 645 [1824]). A few years later, however, Wirt appeared to soften this view and argued that the Cherokees constituted an independent nation governed by its own laws (*Official Opinions*, 2 Op. Atty. Gen. 110 [1824]).

In 1830 the leaders of the Cherokee Nation, whose sovereignty had been challenged by the state of Georgia, hired

Wirt, no longer attorney general, as legal counsel. Wirt was known to be an outspoken opponent of President Andrew Jackson as well as of the policy of Indian removal. Wirt wrote three legal opinions asserting that the Cherokees constituted a sovereign and independent nation. In 1831, with lawyer and congressman John Sergeant, he helped fashion an original jurisdiction Supreme Court case in which the Cherokees, as a foreign nation, sought an injunction barring enforcement of Georgia's laws within the Cherokee Nation. Wirt and Sergeant argued that these state laws violated international treaties between the Cherokee republic and the United States.

After a deeply divided Court ruled in 1831 in *Cherokee Nation v. Georgia* that the Cherokee republic was a "domestic dependent nation"—not a foreign state capable of suing under original jurisdiction—Wirt redoubled his efforts on behalf of his Indian clients. In 1832 in *Worcester v. Georgia*, with Sergeant as co-counsel, Wirt again asserted that the Cherokees constituted a sovereign nation recognized by treaties with the United States. The Cherokees were not, however, direct parties to this case. In his opinion for the Court in *Worcester*, Chief Justice John Marshall wrote that Georgia's attempts to extend its jurisdiction over the Cherokees violated the authority of the United States and the political rights of the Cherokee republic. After what amounted to a qualified legal victory, the politically astute Wirt urged national legislation that would better protect the Cherokees by increasing the power of the federal government over states like Georgia. Wirt remained a paid legal adviser to the Cherokee Nation until his death in February 1834. He was the Anti-Masonic Party's failed candidate for president against Jackson in the 1832 national election.

See also Cherokee Nation v. Georgia (1831); *Extension Laws*; *Jackson, Andrew*; *Removal*; *Worcester v. Georgia* (1832).

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BIBLIOGRAPHY

- Burke, Joseph Charles. "William Wirt: Attorney General and Constitutional Lawyer." PhD diss., Indiana University, 1965.
- Jabour, Anya. *Marriage in the Early Republic: Elizabeth and William Wirt and the Companionate Ideal*. Baltimore, Md.: Johns Hopkins University Press, 1998.
- Norgren, Jill. *The Cherokee Cases: Two Landmark Federal Decisions in the Fight for Sovereignty*. Norman: University of Oklahoma Press, 2004.
- William Wirt Papers and Letterbooks, Maryland Historical Society, Baltimore.

Women's National Indian Association (WNIA)

The Women's National Indian Association (WNIA), founded in 1879 as the Women's Home Mission Society of the First Baptist Church of Philadelphia, became the first national women's reform group to focus on federal Indian policy. Founded and led by Mary L. Bonney and Amelia S. Quinton, both white, the organization promoted assimilationist policies and a traditional Victorian role for women.

The WNIA began in response to the arrest of Standing Bear, a Ponca chief who without permission left his reservation in Indian Territory to bury his son. A storm of protest erupted among humanitarians, and Bonney and Quinton used the Women's Home Mission Society to call for federal reform of Indian policy. In 1881 the group changed its name to the Indian Treaty-Keeping and Protective Association, and in 1883 it became the Women's National Indian Association. At its peak, the WNIA had eighty-three branches in twenty-eight states and territories.

WNIA members came from the ranks of educated upper- and middle-class women. Quinton, the first president and the editor of WNIA's publications, was typical of the membership. A native of Syracuse, New York, and a Baptist, she traveled widely through the United States and Europe before settling in Philadelphia. The leaders of the organization saw themselves as Christian missionaries and philanthropists. The WNIA publicized the mistreatment of Indians and encouraged assimilation, largely by working through the Christian press and churches. It appealed to the U.S. government to honor promises made to Indian tribes and argued that no treaty should be revised or broken without the free consent of the Indian tribe that signed it. A petition to this effect, and also protesting the movement of American settlers into Indian Territory, was presented to President Rutherford B. Hayes and the U.S. House of Representatives in 1880.

In an effort to aid the plight of Native Americans, the WNIA advocated industrial education and individual property ownership. One leader, Alice Cunningham Fletcher, helped arrange for the Nebraska Omahas to be allotted individual homestead tracts on their reservation. Allotment in severalty was adopted as national policy in the General Allotment Act (Dawes Act) of 1887. Believing the land problem resolved, the WNIA turned its attention to missionary work promoting and supporting the construction of homes, hospitals, and schools on the reservations. It also supported

the training of Indians as physicians, nurses, teachers, and missionaries.

The WNIA participated in the Lake Mohonk Conference of the Friends of the Indian in New York state in the 1880s. In 1891 the WNIA hired field matrons to show Natives how to live in Anglo-style homes with their accompanying gardens, fields, and orchards. Native women soon accounted for one-third of the field matrons. By the start of the twentieth century, the WNIA had lost much of its power. The organization subsequently changed its name to the National Indian Association in 1901 and eventually dissolved in 1951.

See also *Assimilation and Acculturation*; Fletcher, Alice Cunningham; *General Allotment Act (Dawes Act) of 1887*; Hayes, Rutherford B.; *Lake Mohonk Conferences*; *Missions and Missionaries*.

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BIBLIOGRAPHY

- Mathes, Valeria Sherer. "Nineteenth Century Women and Reform: The Women's National Indian Association." *American Indian Quarterly* 14, no. 1 (Winter 1990): 1–18.
- Prucha, Francis Paul. *American Indian Policy in Crisis: Christian Reformers and the Indian, 1865–1900*. Norman: University of Oklahoma Press, 1976.
- Wanken, Helen M. "Woman's Sphere and Indian Reform: The Women's National Indian Association." PhD diss., Marquette University, 1981.

Worcester v. Georgia (1832)

The Supreme Court's landmark decision in *Worcester v. Georgia*, 31 U.S. 515 (1832), recognized Indian tribes as distinct political communities that retain significant sovereign powers. Despite the case's importance to the sovereignty of the American Indian tribes, it did not prevent the United States from removing the Cherokee Nation from its homeland in the Southeast.

In the treaties of Hopewell (1785) and Holston (1791), the United States guaranteed the Cherokee Nation's right to retain all of its remaining lands, including those within the state of Georgia's borders, which at that point extended from the Atlantic Ocean to the Mississippi River. When Georgia ceded its western lands to the federal government in the Compact of 1802, however, it received a promise that the United States would "extinguish Indian land title" to all land within Georgia's new borders "as soon as the same can be peaceably obtained, and on reasonable terms." As Georgia's population grew, Georgia officials pressed Presidents James Monroe and John Quincy Adams to buy the Indian lands in

the state as the Compact of 1802 promised. In March 1820, Monroe asked Congress to set aside funds to purchase them. The Cherokees, however, did not want to sell at any price, as their chiefs told Monroe's commissioners in 1823. Monroe so reported to Congress in March 1824.

In 1827 the Cherokee Nation adopted a constitution, establishing a representative form of government with its capitol at New Echota. It expressly asserted sovereignty over all Cherokee lands to the exclusion of all states in which they were located, including Georgia. By then, the Supreme Court had declared, in *Johnson v. M'Intosh* (1823), that Native American nations had limited sovereignty that at the least required states to obtain the federal government's approval before taking title to Indian lands.

The tide turned against the Cherokees in 1828, with the election of President Andrew Jackson, a strong advocate of relocating all Indians to the trans-Mississippi West, beyond the boundaries of any state. In December 1828, even before Jackson's inauguration, the Georgia legislature passed a law in violation of the treaties of Hopewell and Holston. The law extended the state's jurisdiction over the Cherokee Nation's territory in Georgia and made all whites on Cherokee lands immediately subject to Georgia's state laws. Georgia also declared that all Cherokees would become subject to the state laws effective June 1, 1830, when all Cherokee laws and institutions would become invalid. Alabama, Mississippi, and Tennessee quickly passed similar "extension" laws.

Once in office, Jackson successfully urged Congress to pass the Indian Removal Act of 1830, which allowed him to negotiate the removal of tribes in the East beyond the Mississippi. Pressuring the Cherokees to enter into negotiations, the Georgia legislature passed another anti-Cherokee law on December 22, 1830, making it illegal for the Cherokee legislature to meet, except for the express purpose of ceding land. On March 18, 1831, in *Cherokee Nation v. Georgia*, a Supreme Court majority rejected the Cherokees' motion for an injunction against enforcement of Georgia's anti-Cherokee laws for lack of jurisdiction. The Cherokee Nation had asserted that it was a foreign state and therefore had the right to bring an original action against Georgia in the Court under Article 3, Section 2, of the Constitution. The Court disagreed, holding that it was not a foreign state and that it therefore could not bring such a case. Rather, the Court said, the Cherokees comprised a "domestic, dependent nation."

Although the Court refused to hear the case, Chief Justice John Marshall expressed the view that "[i]f Courts were per-

mitted to indulge their sympathies, a case better calculated to excite them can scarcely be imagined,” thus foreshadowing the possibility of a decision favorable to the Cherokees in an appropriate case. Two other members of the seven-member court accepted Marshall’s opinion. Two more dissented, asserting that an injunction should be granted. Two others agreed that Georgia’s actions violated Cherokee treaty rights but agreed with the decision on the foreign state issue. (One justice, Gabriel Duvall, was ill and did not participate in the hearing and judgment on the case.) Thus, four of the six justices who heard the case apparently would have ruled for the Cherokee Nation on the merits.

Soon after the *Cherokee Nation* decision, the Cherokees found a new route to the Supreme Court that avoided the jurisdictional challenge raised by Article 3. Samuel A. Worcester was a Vermont minister and missionary for the American Board of Commissioners for Foreign Missions. Since 1827 he had been living in New Echota, where he had helped translate the Bible and other religious materials into the Cherokee language using the Cherokee syllabary invented by Sequoyah in 1821. By 1830 Worcester had become a prominent advisor to the Cherokees, counseling them in their dealings with federal and Georgia authorities. Georgia’s anti-Cherokee laws passed in December 1830 included, as a result, a special provision directed against Worcester and other missionary ministers living among the Cherokees, making it a crime for whites to live on Cherokee land without the governor of Georgia’s permission. After Worcester refused to leave New Echota, a Georgia court arrested and convicted him, along with physician and missionary Elizur Butler and five other missionaries, for violating that law. They were sent to prison for four years of hard labor.

This event created an opportunity for the Cherokees’ lawyers to challenge Georgia’s violations of the Hopewell and Holston treaties and to assert the Cherokee Nation’s sovereignty by appealing the convictions of Worcester and Butler to the Supreme Court. Worcester and Butler had the right under the Constitution and the Judiciary Act of 1789 to ask the Court to hear an appeal for their convictions because they raised issues involving federal law (Trade and Intercourse Acts) and federal treaties (Hopewell and Holston). Once the Georgia court entered their convictions, Worcester and Butler asked the Supreme Court for writs of error.

Worcester was a legal triumph for the Cherokees. The Supreme Court granted the requested writs and declared that the Cherokee Nation was a distinct community occupying its own territorial boundaries, within which Georgia’s

state laws had “no force.” It added that non-Cherokees needed Cherokee consent before they could even enter Cherokee land, absent a federal law or a treaty between the Cherokees and the United States that allowed them to enter otherwise. The Court explained that relations between Indian nations and non-Indians were the exclusive province of the U.S. federal government under the Constitution, and by “forcibly” interfering with relations between the United States and the Cherokee Nation, Georgia’s anti-Cherokee laws violated the Constitution along with U.S. laws and treaties.

Cherokee hopes that the decision would enable them to remain in the Southeast were soon dashed. Neither Congress nor President Jackson took action to enforce the decision. Georgia, which had deigned to argue before the Supreme Court, paid no attention to the Court’s decision. Although the Court overturned Worcester’s and Butler’s convictions, Georgia kept them in prison until January 1833 and only released them after they agreed to accept pardons from Georgia’s governor and abandon their opposition to the Cherokees’ removal. In 1832 and 1833, Georgia surveyed the Cherokees’ land, divided it into lots, and distributed the lots by lottery to Georgia citizens. In 1834 the Georgia legislature authorized those who had received lots to move on to them.

Georgia’s actions, and the apparent futility of using the courts to block them, fueled a dispute within the Cherokee Nation over whether removal from Georgia to the West was inevitable. In 1835 a minority faction of the nation’s members signed a treaty with the United States agreeing to removal. Citing that treaty, U.S. troops rounded up the Cherokees, including those who did not agree to removal, in the summer of 1838 and placed them in internment stockades. The Cherokees then migrated to the Indian Territory during the following fall and brutally cold winter. Scholars estimate that somewhere between 4,000 and 8,000 Cherokees died as a direct result of their internment and removal.

The *Worcester* holdings—that Indian nations are distinct communities with their own lands and that Indian nations’ relations with non-Indians are exclusively governed by the U.S. federal government—established foundational principles that remain significant to American Indian law today.

See also *Cherokee Nation v. Georgia* (1831); *Compact of 1802*; *Extension Laws*; *Indian Removal Act* (1830); *Johnson v. M’Intosh* (1823); *Removal*; *Sovereignty*; *Trail of Tears* (1838–1839); *U.S.*

Indian Policy: Congress and the Executive, 1803–1848; U.S. Supreme Court and Indian Policy, 1789–1871; Williams v. Lee (1959).

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BIBLIOGRAPHY

- Burke, Joseph C. "The Cherokee Cases: A Study in Law, Politics, and Morality." *Stanford Law Review* 21 (1968–1969): 500–531.
- Cherokee Nation v. Georgia*, 30 U.S. 1 (1831).
- Cleveland, Sarah H. "Powers Inherent in Sovereignty: Indians, Aliens, Territories, and the Nineteenth Century Origins of Plenary Power over Foreign Affairs." *Texas Law Review* 81 (2002–2003): 1–284.
- Davis, Robert S. "State v. George Tassel: States' Rights and the Cherokee Court Cases, 1827–1830." *Journal of Southern Legal History* 12 (2004): 41–71.
- Elk v. Wilkins*, 112 U.S. 94 (1884).
- Garrison, Tim Alan. *The Legal Ideology of Removal: The Southern Judiciary and the Sovereignty of Native American Nations*. Athens: University of Georgia Press, 2002.
- Norgren, Jill. *The Cherokee Cases: Two Landmark Federal Decisions in the Fight for Sovereignty*. Norman: University of Oklahoma Press, 2004.
- Phillips, Ulrich Bonnell. "Georgia and State Rights: A Study of the Political History of Georgia from the Revolution to the Civil War, with Particular Regard to Federal Relations." In *Annual Report of the American Historical Association for the Year 1901*, 2:3–224. Washington, D.C.: Government Printing Office, 1902.
- Satz, Ronald S. *American Indian Policy in the Jacksonian Era*. Norman: University of Oklahoma Press, 2002.
- Walker, Willard. "The Roles of Samuel A. Worcester and Elias Boudinot in the Emergence of a Printed Cherokee Syllabic Literature." *International Journal of American Linguistics* 51 (1985): 610–612.

Work, Hubert

Hubert Work (1860–1942) served as secretary of the interior (1923–1928) under presidents Warren G. Harding and Calvin Coolidge. Born in Pennsylvania, he graduated from the University of Pennsylvania with a medical degree in 1885 and then served in the U.S. Army Medical Corps during World War I (1914–1918). After Albert B. Fall resigned due to his part in the Teapot Dome scandal, Work assumed control of the Interior Department. While he generally supported the ethnocentric approach to Indian policy pursued by Office of Indian Affairs commissioner Charles Burke, Work was concerned about the problems facing Native peoples.

In 1923 Work established the Advisory Council on Indian Affairs, generally known as the Committee of One Hundred. The council, which met only briefly in December 1923, consisted of men and women from a variety of backgrounds and included a number of educated Indians. The council accomplished little, but the problems it identified convinced Work that further investigation was needed, leading him in 1926 to commission the independent study that

became known as the *Meriam Report*. That report, completed in 1928, was the most comprehensive examination of the problems facing the American Indians undertaken to that point, and its recommendations laid a foundation for some of the reforms of the Indian New Deal. In July 1928 Work resigned from the Interior Department to become chair of the Republican National Committee, and he helped direct Herbert Hoover's presidential campaign.

See also *Burke, Charles H.; Interior, U.S. Department of the; Meriam Report; U.S. Indian Policy: Congress and the Executive, 1871–1934.*

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BIBLIOGRAPHY

- Prucha, Francis Paul. *The Great Father: The United States Government and the American Indians*. Lincoln: University of Nebraska Press, 1984.

World War I (1914–1918), American Indians and

Native Americans have played a prominent role in virtually every war in U.S. history, and the First World War (WWI) was no exception. Although numerically small compared with other minority groups, American Indians have contributed a disproportionately large number of soldiers, sailors, and airmen, who have often served in some of the most dangerous military occupations. Influenced by popular stereotypes of Indians as "instinctive warriors," WWI commanders assigned them duties as scouts, messengers, and patrol leaders. The Indian casualty rate, consequently, was significantly higher than that of non-Indians (5 percent compared with 1 percent for the American Expeditionary Force as a whole). Government officials, meanwhile, encouraged Indians to serve in the military as a means of expediting their assimilation into mainstream society. Much of the history of American Indians in the armed forces reveals the paradox of a people recruited for their alleged "warrior ethic," but with the goal of extinguishing the very traits for which they were employed.

The United States' entry into WWI in April 1917 was a watershed event in the history of Native American military service. First, it settled the issue of whether Indian soldiers should be integrated into regular units or, like African Americans, be segregated into race-specific regiments. Opponents of segregation argued that integrating Indians into regular units would hasten their assimilation and adoption of "civilization." Although military and government

officials eventually ruled against creating segregated Indian units, the army inadvertently established a few nearly all-Indian units. For example, Indian soldiers in the Arizona National Guard received assignments to a predominantly Indian company in the 158th Infantry Regiment, while about six hundred Native Americans (mostly from the five major Southeastern tribes of Oklahoma) served in the 142nd Regiment.

A second important issue concerned the draft and enlistment of American Indians. The Selective Service Act of May 1917 required all men between the ages of twenty-one and thirty-one to register for the draft. The law applied to American Indians who were citizens as well as the roughly one-third of Indian men who were not. While citizen and noncitizen Indians could enlist for service, only citizens could be drafted. Local draft boards struggled to determine citizenship status, however, and there were numerous cases of noncitizens being drafted. An additional problem occurred with tribes like the Iroquois, who maintained that their members were immune from the draft as they were citizens of a sovereign Indian nation. In 1918 the Iroquois unilaterally declared war on Germany and then permitted their men to serve in the U.S. military as “allies.” Sporadic instances of draft resistance occurred among the Creeks, Goshutes, and Eastern Cherokees. Approximately 10,000–12,000 Native Americans served during WWI, representing nearly 20 percent of the adult male Indian population.

In October 1918 army officials began experimenting with the idea of using Native Americans to transmit sensitive information in their own languages via telephone. By the war’s end, military officials had utilized Choctaw, Osage, Cheyenne, and Comanche operators to transmit messages—setting the precedent for the more famous Navajo Code Talkers of the Second World War. Among these operators was Joseph Oklahombi, a Choctaw soldier who served in the 141st Infantry Regiment. When he and others were cut off from their company, he rushed a German machine-gun nest and captured more than 170 prisoners near St. Etienne, France. He later received the French Croix de Guerre for his valor.

Like other Americans, Indian soldiers served to protect their homeland and demonstrate their patriotism and devotion to country; others saw military service as a means of social and economic mobility, and perhaps as an escape from the unemployment and poverty associated with reservation life. The lure of travel and excitement and an opportunity to gain prestige and status in the eyes of their people attracted

young men—both Indian and non-Indian. Native Americans also made substantial contributions on the home front. Reservation families were active in the Red Cross, and several thousand Indian families bought Liberty bonds and war stamps. Indian women knitted socks, mufflers, sweaters, and hospital garments for American soldiers, while Indian farmers stepped up production of agricultural products.

Native Americans who served in the military returned home having acquired new insights and attitudes about the world, their country, and often themselves. For many tribes, the war years brought about a renewal of customs and traditions they had not practiced in a generation. For example, homecoming Indian veterans experienced purification rituals, victory dances, feasts, and giveaways. A fortunate few even gained admittance to previously inaccessible warrior societies. Military service during WWI, therefore, can be seen as a catalyst for cultural renewal among Indian peoples, an irony considering the goals of policy makers who had hoped that military service would encourage assimilation.

See also *Army, United States; Assimilation and Acculturation; Citizenship: United States and State; Plenty Coups; U.S. Indian Policy: Congress and the Executive, 1944–1962.*

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BIBLIOGRAPHY

- Barsh, Russel L. “American Indians in the Great War.” *Ethnohistory* 38 (Summer 1991): 276–303.
- Britten, Thomas A. *American Indians in World War One: At Home and at War*. Albuquerque: University of New Mexico Press, 1997.
- Dempsey, James. “The Indians and World War One.” *Alberta History* 31 (Summer 1983): 1–18.
- Finger, John R. “Conscription, Citizenship, and Civilization: World War I and the Eastern Band of Cherokee.” *North Carolina Historical Review* 63 (July 1986): 283–308.

World War II (1939–1945), American Indians and

Native American per capita participation in the armed forces in World War II (WWII) surpassed that of all other races in the United States. Nearly all eligible Indian males complied with compulsory draft registration under the Selective Training and Service Act (1940), and fully 60 percent of the 25,000 who ultimately served enlisted voluntarily.

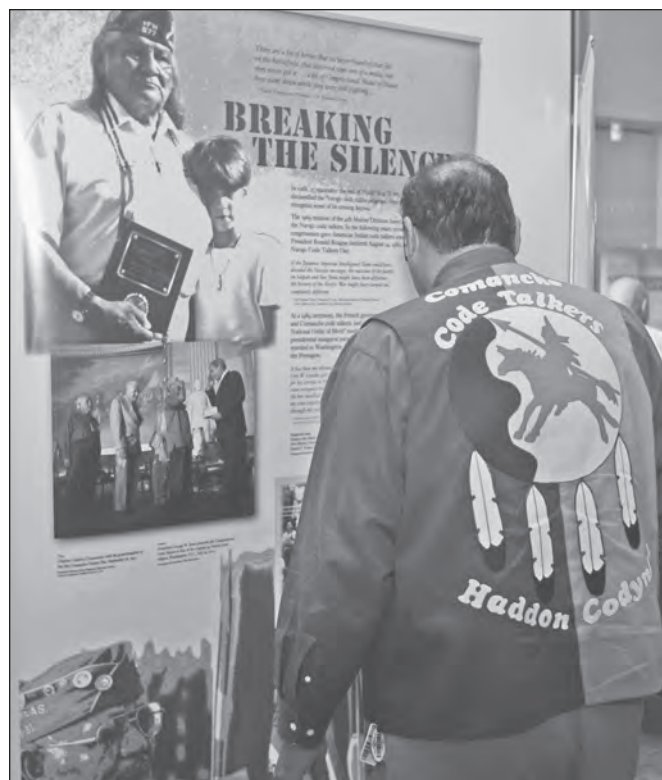
Patriotism, fostered by decades of acculturation and assimilation-oriented education, encouraged Indian enlistment and compliance with the draft. The lure of steady wages and specialized job training attracted some. Also

important was a latent warrior tradition that had laid dormant for decades under reservation regulations. Numerous men belonged to tribal communities that historically rewarded battlefield courage with tribal honors and leadership. Wartime military service renewed that heritage.

The Selective Service System registered and inducted American Indians as Caucasians, a policy that conformed to World War I regulations. Total inclusion, federal policy makers believed, would hasten the full assimilation of Indians into mainstream white society—the goal of federal Indian policy since the General Allotment Act (Dawes Act) of 1887.

Although Native Americans generally welcomed the opportunity to enlist, compulsory military service generated some resistance. Hickiwan Papagos of Arizona insisted they dwelled outside the territorial boundaries of the United States, were not citizens, and therefore not liable to the draft. Iroquois Confederacy members in New York reminded the federal government that the 1794 Treaty of Canandaigua left the confederacy as an independent nation. Therefore, voluntary enlistment was a matter of individual choice; compulsory military service violated tribal independence and sovereignty. In Washington State, Yakamas argued their 1857 treaty forbade participation in America's armed forces. The demands of WWII compelled the government to resolve the Indians' resistance to compulsory service. A string of federal court rulings in 1941 and 1942, such as *Totus et al v. the United States* and *Ex parte Green*, determined that Indians were indeed U.S. citizens, Congress could dispose of treaties at will, and all Indians were consequently subject to compulsory military service. The imposition of federal authority forever altered the U.S. government's relationship with Native Americans.

American Indians served in all military occupations at all ranks in both theaters of war. Gen. Clarence Tinker (Osage) commanded the Army Air Corps in Hawaii from January 1942 until his death in battle in June. Col. Ed McLeish (Choctaw) directed guerrilla activities against Japanese forces in the Philippines until 1945. Marine corporal Ira Hayes (Pima) served throughout the Solomon Islands and in February 1945 helped raise the U.S. flag atop Mount Suribachi, Iwo Jima. Particularly important to the war effort was the contribution made by 450 Navajos purposely recruited by the Marine Corps to serve as radio operators, transmitting battlefield messages in a coded version of their Native language. In the first forty-eight hours of fighting on Iwo Jima, Navajos transmitted eight hundred messages. "Were it not for the Navajos," said Maj. Howard Conner,



The son of a Comanche code talker visits an Oklahoma City exhibit honoring the Indian radio transmitters, who came from Navajo, Comanche, Choctaw, and other tribes. The code talkers were essential to campaigns in both world wars.

Fifth Marine Division, "the Marines would never have taken Iwo Jima." Throughout the war, the Navajos' code talking saved untold lives and decided many battles. Their service proved indispensable in all Pacific theater campaigns.

By war's end, Indian servicemen earned more than two hundred medals for courage under fire. Army lieutenants Ernest Childers (Creek) and Jack Montgomery (Cherokee) received the Congressional Medal of Honor for their heroism during the Italian campaign.

On the home front, approximately forty thousand American Indians exited reservations for wartime employment in the largest migration of Indians to urban communities in American history. Urban residency provided many Indians their first significant contact with non-Indians and introduction to nonreservation life. Moreover, defense work netted Native Americans record wages, averaging \$2,000–2,500 annually in contrast to their 1939 average yearly earnings of \$600.

War specifically altered the lives of Indian women, offering many their first taste of personal independence. Nearly

one thousand entered the armed forces, where they learned new skills, traveled extensively, and assumed positions of leadership. On reservations, with so many men absent, women often assumed traditionally male roles and positions of tribal leadership.

War also generated record demand for tribal resources. Indian agricultural production soared. Reservation-raised crops grossed \$22 million by 1944. Cattle ranching profits likewise skyrocketed. Herds in 1940 totaled merely 375,000 head; by late 1944 cattle numbered 1.5 million head with a market value of \$16 million. Land also proved a vital resource. Native Americans relinquished 840,000 acres to Washington for aerial bombing and artillery ranges, and thousands more acres were used by the War Relocation Authority, the federal agency responsible for evacuating Japanese Americans from the West Coast and detaining them at inland internment camps for the war's duration. With few exceptions, all Indian lands were returned to tribal ownership by late 1945; those used by the War Relocation Authority now included irrigation systems, cultivated fields, electric and water service, and buildings erected for housing internees.

To support the war effort, tribes frequently instructed the Office of Indian Affairs to redirect congressional appropriations for tribal programs to the purchase of war bonds. Moreover, tribally owned businesses invested profits in war bonds, and individual purchases were common among Native Americans. By war's end, American Indians had invested more than \$55 million in bonds, a remarkable achievement for the poorest of all American population groups.

War also had negative repercussions for Native Americans. Congress moved to eliminate spending not deemed essential to the war effort, a blow to federal programs that benefited Indians. Reservation school construction ceased, medical programs were sharply reduced, hospital service was curtailed, and land revitalization efforts were halted. Tribal political structures weakened with sixty-five thousand Indians at war or working away from reservations, and certain religious ceremonies were no longer practiced. Additionally, with the successful blending of Indians into the wartime workplace and armed forces, Congress renewed its earlier call for the final assimilation of Native Americans into mainstream society, pressing for a policy interestingly termed "termination." At war's end, American Indians stood at a crossroads—tribal revitalization or final assimilation.

A large percentage of Indians viewed their wartime experiences as a giant leap toward assimilation with mainstream, non-Indian society; however, the harsh experiences of many

Native Americans encouraged a much different perspective. For example, Virginia state officials initially labeled Tidewater Indians as African Americans on government documents and assigned them to racially segregated military units. Federal courts ruled that Congress could suspend treaties or specific treaty provisions made with Indian tribes during national emergencies, a blow to tribal sovereignty. New Deal era programs to rebuild reservations collapsed under the financial burden of war. Some members of Congress renewed demands to terminate all federal support of Native Americans and compel Indians' immediate assimilation with white America, regardless of preference.

Many Native Americans argued that assimilation remained an elusive goal without continued federal support programs, and they also worried that the renewed zeal for compulsory assimilation threatened their identity. In 1944 representatives from two dozen tribes scattered across the United States assembled in Denver, Colorado, and founded the National Congress of American Indians (NCAI). The organization's activist agenda was simple—secure the federal support structure necessary for Native American assimilation, encourage understanding and appreciation of Native cultures, and promote the right of self-determination for Indians individually and tribally. War veterans quickly emerged as tribally elected leaders and representatives to the NCAI; more than a few were elected to government office at the local, state, and federal levels.

Other Native Americans opted for retrenchment. Like those who sought assimilation, they were intensely proud of their heritage, honored by their tribal communities for their wartime activities, aware of the federal government's plan to terminate all services to Native Americans, and convinced that their Indian identity and cultures would ultimately vanish if assimilation became reality. They chose instead to retreat from the non-Indian world, revitalize traditional tribal structures, return to their undiluted traditional spiritual base, and assume the traditional Indian world view. These individuals in the postwar years would battle any policy, action, or custom they believed challenged their right to retain and live a separate Native American identity. The lasting consequence of Native service in World War II was accelerated Indian activism within and without the American political system, an activism that evolved into the "Red Power" movement of the 1960s.

See also *Assimilation and Acculturation; Bureau of Indian Affairs (BIA); Citizenship: United States and State; Indian Civilian*

Conservation Corps; Termination and Restoration; Tribal Citizenship; U.S. Supreme Court and Indian Policy, 1935–1965.

Kenneth William Townsend

BIBLIOGRAPHY

- Hauptman, Laurence M. *The Iroquois Struggle for Survival: World War II to Red Power*. Syracuse, N.Y.: University of Syracuse Press, 1986.
- Hemingway, Albert. *Ira Hayes: Pima Indian*. New York: University Press of America, 1988.
- Johnson, Broderick. *Navajos and World War II*. Tsale, Ariz.: Navajo College Press, 1977.
- Meadows, William C. *Comanche Code Talkers of World War II*. Austin: University of Texas Press, 2002.
- Paul, Doris. *The Navajo Code Talkers*. Pittsburgh: Dorrance Publishing Co., 1973.
- Townsend, Kenneth W. *World War II and the American Indian*. Albuquerque: University of New Mexico Press, 2000.
- Vogt, Evan Z. *Navajo Veterans: A Study of Changing Values*. Cambridge, Mass.: Harvard University Press, 1951.

Wounded Knee Massacre (1890)

In the Wounded Knee Massacre (December 29, 1890), U.S. Army troops killed more than 150 generally defenseless Sioux men, women, and children. The massacre was a consequence of American officials' concerns about the Ghost Dance revitalization movement among the Sioux and other tribes. The U.S. government suspected that the Sioux, who had been confined to Indian reservations, were preparing once again to go to war to recover their lands and escape the often desperate reservation conditions.

The Ghost Dance

The Ghost Dance, in which participants danced for extended periods of time, was introduced by the Paiute prophet Wovoka, who learned of the dance in a vision on New Year's Day 1889. Wovoka taught that performing the Ghost Dance would bring about a time when all Indian people, living and dead, would be reunited on an earth spiritually regenerated and forever free from death, disease, and the other miseries Indian people had recently experienced. His teachings were eagerly accepted by many Indian people who had been devastated by war, reservation life, poverty, and disease, and who had undergone severe cultural and physical attacks.

As the religious movement spread rapidly in 1890, the Ghost Dance took on features unique to individual tribes. Among the Teton Lakotas, for example, Wovoka's admonitions of peace were forgotten. They introduced a Ghost Dance shirt to the religion, which they believed would pro-

tect the wearer and repel bullets. Non-Indians were alarmed by reports of what they viewed as Indian warriors performing a new war dance that was supposed to result in the disappearance of whites and the return of the buffalo. The wearing of the Ghost Dance shirt thus transformed Wovoka's religious movement into what some U.S. officials believed was a call for armed revolt.

The Massacre

U.S. government agents and missionaries opposed the Ghost Dance, and in 1890 the army prohibited the dance on reservations. In October 1890 Pine Ridge reservation agent Daniel F. Royer, a political appointee with almost no experience in Indian relations whom residents called Young-Man-Afraid-of-Indians, asked the government to send troops to help him restore order. His urgent request and reaction to the outbreak of the Ghost Dance helped bring about the tragic events at Wounded Knee.

Tensions intensified as the Lakotas left the reservations without permission to participate in the Ghost Dance rituals out of sight of the army. Many of the dancers congregated in the northwest corner of the Pine Ridge reservation. The U.S. government blamed Sitting Bull, a highly respected Lakota spiritual leader living at the Standing Rock reservation, for the unrest and moved to arrest him. Federal officials also became concerned about the number of Indian men, women, and children leaving the Cheyenne River, Pine Ridge, and Standing Rock reservations to join the dance near Pine Ridge and feared a general revolt. After Sitting Bull was killed by tribal police in early December 1890, reports spread that a large group of armed Miniconjou Sioux, led by Chief Big Foot, were en route from their Cheyenne River reservation to join the Ghost Dancers.

In fact, Big Foot and about 350 followers were headed to the Pine Ridge agency to surrender to federal authorities. Big Foot had accepted an offer from Chief Red Cloud to join him and his band on the Pine Ridge reservation and to help negotiate a peace to avoid warfare. Maj. Samuel Whiteside and the recently reconstructed Seventh Cavalry, however, intercepted Big Foot's group on December 28, 1890, and redirected them to a location on Wounded Knee Creek, just north of the Pine Ridge agency. Only 116 of those in Big Foot's group were men, most of whom were poorly armed and represented no threat to Major Whiteside and his men. Later that day, Col. James W. Forsyth arrived with more troops and assumed command of the Seventh Cavalry and Big Foot's Miniconjou encampment at

Wounded Knee. The Sioux were now surrounded by the American troops. The Seventh Cavalry was stationed on a small hill northwest of the Indian camp, with cannons aimed at the encampment. The government planned to prepare the group for removal to an army post at Gordon, Nebraska. From there, the men would be separated from the women and children and transferred by train to army headquarters in Omaha, Nebraska, where they would remain until the Ghost Dance threat was eliminated.

The next morning Forsyth called on the Indians to surrender their weapons. Some reports indicate that some troops were looking for rifles that Indian men had taken from Lt. Col. George Armstrong Custer's dead Seventh Cavalry troopers at the Battle of Little Bighorn (June 25, 1876). A small group of Indian men brought a modest cache of old rifles from their tepees and stacked them in front of the soldiers. Soldiers then went into the Indian tepees and searched through bedding, clothing, and sacred bundles but did not find the rifles they sought. Black Coyote, a deaf Lakota holy man, came forward, however, with a rifle in his hands. A struggle to disarm him ensued and the rifle discharged, then U.S. troops encircling the camp opened fire. Most of the Indian men died in the initial onslaught while the women and children were killed by cannons firing into the ravine. By the time the guns went silent, the light snowfall that had begun that morning had turned into a blizzard, and the army left the dead and injured on the battlefield to freeze and die.

On January 3, 1891, a civilian burial party carried 146 bodies in wagons to Pine Ridge and buried them in a mass grave near the Pine Ridge Episcopal Church. Survivors, families, and friends had removed some of the dead and dying earlier, so it is unknown how many of Big Foot's followers died in the massacre. Estimates run as high as three hundred killed; an unknown number escaped and apparently froze to death after the massacre. Twenty-five U.S. soldiers were killed, many seemingly by friendly fire.

American newspapers' reactions to the massacre at Wounded Knee ranged from rejoicing at the U.S. Army's destruction of the Indian resistance to condemning its brutality. There were also those who saw it as the Seventh Cavalry's rightful revenge for Lieutenant Colonel Custer's death at Little Bighorn. The government awarded the Congressional Medal of Honor to twenty soldiers at Wounded Knee; its inquiry into Forsyth's actions exonerated him.

The massacre prompted another period of recriminations and calls for reform in U.S. Indian policy. Groups such as the Board of Indian Commissioners and the Indian Rights

Association urged the government to extend its civil service rules to the Office of Indian Affairs and to replace patronage appointees in the Indian agencies with professional civil servants.

The massacre serves as an important historical marker. Although it was certainly not the last conflict between Indians and the United States, it is now symbolically viewed as the end of an era. It was an event that marked the conclusion of the Indian wars in the West and the end of viable violent resistance by American Indians.

See also *Big Foot*; *Custer*, *George Armstrong*; *Little Bighorn* (1876), *Battle of*; *Red Cloud*; *Reservations*; *Religious Freedom*; *Sitting Bull*; *United States–Indian Wars* (1848–1891); *Wovoka*.

Troy R. Johnson

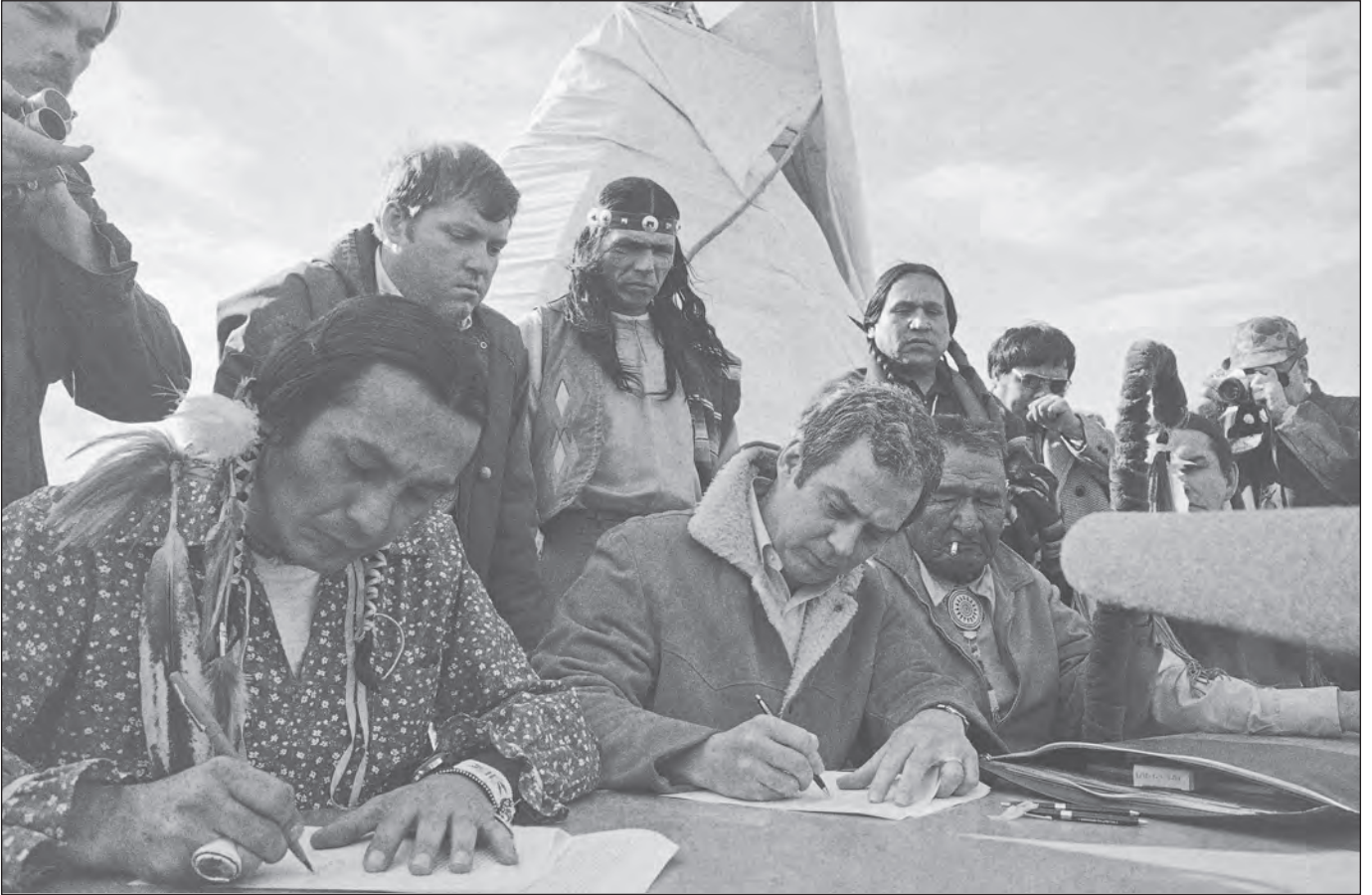
BIBLIOGRAPHY

- Brown, Dee. *Bury My Heart at Wounded Knee: An Indian History of the American West*. 4th ed. New York: Henry Holt and Co., 2007.
 Utley, Robert M. *The Last Days of the Sioux Nation*. New Haven, Conn.: Yale University Press, 1963.

Wounded Knee (1973), Occupation of

On February 27, 1973, the Oglala Sioux Civil Rights Organization (OSCRO) and the American Indian Movement (AIM) led an occupation of the Wounded Knee village in South Dakota, near the site of the historic 1890 massacre of Minneconjou Sioux by the U.S. Army. The occupation occurred within the greater context of Native American demonstrations against government injustices, corruption, and abuses by the Bureau of Indian Affairs (BIA). Representatives from sixty-four tribes, joined by African American, Chicano, and Caucasian activists, led an occupation that lasted seventy-one days. Reporters from around the nation called public attention to the tense standoff that ensued between Native Americans and federal agents.

While the occupation of Wounded Knee had national implications, its roots lay in Pine Ridge reservation politics. Chronic disaffection with an unresponsive tribal council combined with deepening poverty and the misallocation of federal funds led to unsuccessful efforts to impeach Oglala Sioux tribal councilman Richard "Dick" Wilson. In retaliation, Wilson called in federal troops to augment his homegrown police force, sandbagged the council building, and posted a .50 caliber machine gun on its roof. Pine Ridge residents gathered at the community center in nearby Calico to



AIM leader Russell Means and Assistant U.S. Attorney General Kent Fizzell sign a settlement to end the Indian occupation of Wounded Knee. In 1973 protestors gathered to occupy the site of Wounded Knee and presented a list of Sioux demands. They abandoned the occupation after ten weeks.

discuss options. Oglala activists Gladys Bissonette, Ellen Moves Camp, and Lou Bean pleaded for help from AIM leaders Dennis Banks and Russell Means. Fearing that direct attempts to unseat Wilson would only end in violence, Banks, Means, and local activists agreed on a public stand at Wounded Knee. They hoped the publicity would do indirectly what they could not.

Once at Wounded Knee, protesters established their base of operations at the Sacred Heart Catholic Church, setting up a low perimeter of sandbags and cinder blocks around the building. Federal agents arrived amid reports of burglary (some occupiers had raided the village trading post and museum upon arrival, confiscating food, weapons, and artifacts). Occupiers established a five-hundred-foot-wide no-man's-land between themselves and federal agents and set up a canvas tipi in the middle as a negotiating place. Under the direction of AIM and OSCRO, occupiers sent a list of demands addressing Sioux concerns to agents. In addition to

demanding Wilson's removal, they called for Senate hearings reviewing treaty violations and for investigations of the BIA, the Department of the Interior, and the administration of Sioux reservations in South Dakota. In challenging federal officials either to negotiate or to storm Wounded Knee and kill the protestors, Wounded Knee activists deliberately referenced the 1890 catastrophe and raised the profile of their occupation.

Eventually, more than three hundred National Guard troops, U.S. marshals, tribal police, and Wilson-recruited armed vigilantes surrounded Wounded Knee, cutting off the village from the outside world. Faced with the prospects of a protracted siege, limited food supplies, relatively few weapons, and little ammunition, Banks called on AIM supporters to provide material support. However, federal troops confiscated much of the food and supplies sent by supporters, though a few resourceful protestors occasionally managed to slip past agents to secure provisions.

Throughout the ten-week siege, negotiations to end the occupation broke down as the protesters were determined to hold their ground, both literally and figuratively, while the government was determined to dissuade future actions by denying this specific group satisfaction. Agents gradually tightened their grip, cutting phone lines, electricity, and water and arresting supply-bearing sympathizers. On March 11, the Oglalas announced they had formed a new Independent Oglala Nation, demanded that the tribal council be abolished, and resurrected the 1868 Treaty of Fort Laramie (acknowledging Sioux ownership of portions of the Dakotas, Montana, Nebraska, and Wyoming) as the key instrument for diplomatic relations. They also demanded recognition from the United Nations for their new nation and issued passports and visas to reporters who entered the occupation area. By April 5 progress was evident as the White House agreed to meet with AIM leaders and Russell Means submitted to arrest. However, negotiations once again broke down, and on April 26–27, federal agents opened fire with .50 caliber machine guns and launched tear gas into the encampment. Many occupiers sustained injuries, and both Frank Clearwater and Oglala Vietnam War veteran Lawrence “Buddy” Lamont were killed. Outgunned and starving, occupiers finally laid down their arms and abandoned the occupation on May 8.

Though the occupation instilled a renewed sense of warrior-identity in younger generations and served to heighten Americans’ awareness of government-committed injustices against Native Americans, it did little in terms of long-term change. The Wounded Knee village sustained extensive property damage. Federal agents arrested more than two hundred occupiers, including AIM leaders Carter Camp; Leonard Crow Dog, a spiritual leader; and Wallace Black Elk, a medicine man. Dennis Banks escaped with others the night before surrender but was subsequently apprehended and arrested. Wilson remained tribal chairman. In the years following the occupation, he brutally retaliated against anyone in opposition to his policies. Residents of the Pine Ridge reservation and activists alike faced severe persecution. Congress gave little more than lip service to promises of abuse investigations, and AIM was slowly dismantled as the federal government prosecuted key leaders, tying them up in protracted court battles and effectively bankrupting the organization. The occupation did, however, prove to be a pivotal point for gaining national sympathy and drawing attention to Indian rights. Yet, the memory of the Wounded Knee occupation has become entangled and confused with

other events. For example, Leonard Peltier is serving two consecutive life sentences for the 1975 murder of two Federal Bureau of Investigation agents on the Pine Ridge reservation. In popular memory, this event has been linked to Wounded Knee, and Peltier is often mistakenly referred to as an AIM occupation leader. Efforts to correct such errors and to preserve the history and intent of the occupation have spurred an extensive body of memoirs and accounts written by participants and observers, and numerous scholars have revisited the event both for its historical significance and for its sociological appeal, seeking continuity and understanding of the often antagonistic relationship between the federal government and Native Americans.

See also *American Indian Movement (AIM)*; *Banks, Dennis*; *Bureau of Indian Affairs (BIA)*; *Fort Laramie (1868), Treaty of*; *Means, Russell*; *United Nations*; *Wilson, Richard*; *Wounded Knee Massacre (1890)*.

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BIBLIOGRAPHY

- Banks, Dennis, and Richard Erdoes. *Ojibwa Warrior: Dennis Banks and the Rise of the American Indian Movement*. Norman: University of Oklahoma Press, 2004.
- Crow Dog, Leonard, and Richard Erdoes. *Crow Dog: Four Generations of Sioux Medicine Men*. New York: Harper Collins Publishers, 1995.
- Crow Dog, Mary, and Richard Erdoes. *Lakota Woman*. New York: Harper Perennial, 1990.
- Reinhardt, Akim D. *Ruling Pine Ridge: Oglala Lakota Politics from the IRA to Wounded Knee*. Lubbock: Texas Tech University Press, 2007.
- Smith, Paul Chaat, and Robert Allen Warrior. *Like a Hurricane: The Indian Movement from Alcatraz to Wounded Knee*. New York: New Press, 1996.
- Voices from Wounded Knee, 1973, in the Words of the Participants*. Roosevelt, N.Y.: Akwesasne Notes, 1975.
- Wagner-Pacifici, Robin Erica. *Theorizing the Standoff: Contingency in Action*. Cambridge, England: Cambridge University Press, 2000.
- Wilson, James. *The Earth Shall Weep: A History of Native America*. New York: Atlantic Monthly Press, 1999.

Wovoka

Wovoka (c. 1858–1932), a Northern Paiute (Numu) who was also known as Jack Wilson, was considered the primary prophet for the Ghost Dance movement that swept Great Plains reservations during the 1880s and 1890s.

Wovoka was born near Yerington, Nevada, where his father, Tavibo, was known as a healer and religious practitioner. Wovoka was reportedly influenced by other prophets, such as Wodziwob (Paiute), John Slocum (Squaxin), and Smohalla (Wanapum).

During a solar eclipse on New Year's Day 1889, Wovoka had a vision in which he saw dead relatives who were young again, dancing and happy. He claimed that during this vision, he saw God, who gave him special powers and told him that if his people would follow a strict moral code and perform a particular sacred dance, they would be rewarded with eternal youth, the world would be reborn, and the old ways would return.

The teachings of Wovoka, soon known as the Ghost Dance religion, spread rapidly among the many tribes whose traditional ways of life had been so recently sundered. By 1890 the Sioux at the Pine Ridge reservation in South Dakota had enthusiastically taken up the Ghost Dance. Their excitement caused the U.S. government and military to fear a Sioux uprising. On December 29 the military attempted to disarm Chief Big Foot's band of Miniconjou Sioux, who were gathered to perform the dance at Wounded Knee Creek. In the ensuing massacre, the U.S. Seventh Cavalry killed at least 146 Indian men, women, and children and effectively ended the Ghost Dance movement.

After the massacre, Wovoka called for peace with white settlers and the United States. He lived long enough to see his religion fade away, although some Plains tribes continued to practice some of the rituals of the Ghost Dance. Wovoka remained in the Yerington Indian community until his death in 1932. He is buried in the Paiute cemetery in Schurz, Nevada.

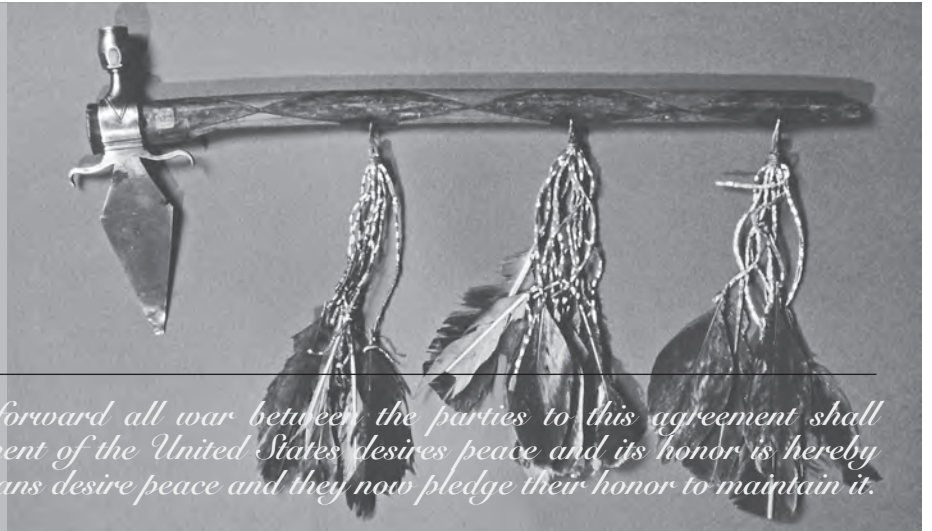
See also *Big Foot; Slocum, John; Smohalla; Wounded Knee Massacre (1890).*

Alan Boye

BIBLIOGRAPHY

- Hittman, Michael. *Wovoka and the Ghost Dance*. Lincoln: University of Nebraska, 1997.
- Kehoe, B. Alice. *The Ghost Dance: Ethnohistory and Revitalization, Massacre at Wounded Knee Creek*. 2nd ed. Long Grove, Ill.: Waveland Press, 2006.
- Smoak, Gregory Ellis. *Ghost Dances and Identity: Prophetic Religion and American Indian Ethnogenesis in the Nineteenth Century*. Berkeley: University of California Press, 2008.

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Article 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they now pledge their honor to maintain it.

Yakama War (1855–1856)

The Yakama War of 1855–1856 (also spelled Yakima) erupted in response to the rapid implementation of the reservation policy in the Oregon and Washington territories. During the spring and early summer of 1855, federal commissioners Isaac Stevens and Joel Palmer concluded four treaties with the closely interrelated “tribes” and “bands” of the Columbia Plateau, including the Yakamas, Klickitats, Umatillas, Walla Wallas, Cayuses, and Nez Perces, who collectively ceded more than thirty million acres of land. Many headmen signed the treaties under duress. Others stayed away from the councils entirely and were outraged to learn their lands had been sold.

War became virtually inevitable when Stevens and Palmer prematurely opened the ceded territory to American settlement. At the councils, they had assured tribal leaders that the treaties would not take effect for two to three years, pending ratification by Congress and completion of the promised improvements. Within a month of the treaty councils, however, the commissioners ran advertisements in territorial newspapers declaring the ceded areas open for homesteading.

News of the “highly advantageous” treaties competed for attention with stories announcing the discovery of gold in northeastern Washington Territory. By mid-summer, large numbers of prospectors had marched over the Cascade Mountains or streamed up the Columbia River—straight into the territory of the interior tribes. Hostilities commenced after Yakama warriors killed several miners for stealing horses and assaulting Indian women. When Indian agent Andrew Bolon went to investigate, a party of Yakamas mur-

dered him as well. Maj. Granville Haller led an expedition of U.S. troops from Fort Dalles in order to retaliate, only to be routed by a force of seven hundred Indians under Kamiakin, the nominal “head chief” of the Yakama Nation.

Nearly simultaneous outbursts of violence in the Rogue River and Puget Sound regions convinced many U.S. citizens that there was a “savage” conspiracy to drive them from the Pacific Northwest. In reality, the Yakama War unfolded as a sporadic series of skirmishes involving only a portion of the Columbia plateau’s indigenous population. Many Native people remained neutral or even sided with the Americans. Regardless, the hastily organized Oregon volunteers killed peaceful Indians, tortured and executed prisoners, and sacked Catholic missions accused of aiding the enemy. Regular military commanders condemned such behavior but found it easier to restrict Native movement than to rein in overzealous volunteer units. To protect the neutral Indians from hostile influences and vigilante action, the government concentrated them in makeshift internment camps near the Columbia River, where they endured hunger and other hardships due to prolonged confinement and inadequate rations.

The majority of Indians along the mid-Columbia River region had made peace by 1857, when Gen. John E. Wool temporarily closed the plateau to further settlement, but Yakamas led by Kamiakin and Owhi also fought in the Coeur d’Alene War of 1858. Although Indian leaders hostile to the United States failed to foment a general uprising, the bloodshed of these wars presaged the violence that would accompany the expansion of the reservation system over the next twenty years.

See also *Kamiakin*; *Palmer, Joel*; *Reservations*; *Stevens, Isaac Ingalls*; *Westward Migration*.

Andrew H. Fisher

BIBLIOGRAPHY

- Richards, Kent D. *Issac I. Stevens: Young Man in a Hurry*. Provo, Utah: Brigham Young University Press, 1979. Reprint, Pullman: Washington State University Press, 1993.
- Splawn, Andrew Jackson. *Ka-mi-akin, Last Hero of the Yakimas*. Yakima, Wash.: Caxton Printers, 1958.
- Trafzer, Clifford E., and Richard D. Scheuerman. *Renegade Tribe: The Palouse Indians and the Invasion of the Inland Pacific Northwest*. Pullman: Washington State University Press, 1986.

Yellow Thunder

Yellow Thunder (Wahkanjahzeegah) (c. 1774–1874) was a Ho-Chunk (Winnebago) chief who repeatedly defied U.S. government attempts at tribal removal, earning the name “the man who would not leave.”

Yellow Thunder was born on Lake Winnebago in what is now Wisconsin. Beginning in 1825, he witnessed early white settlement on his tribe’s land and the subsequent surrender of more Ho-Chunk territory to the United States from that point. In 1837, a group of chiefs, including Yellow Thunder, was persuaded to sign a treaty that was part of the U.S. government’s efforts to open up land for settlement by removing the Indians from the Wisconsin Territory. The repercussions of the treaty were not explained to the tribe, including a provision requiring the Indians to vacate their land—a large area around Green Bay—within eight months and remove to Iowa. In the same year, Yellow Thunder and other chiefs travelled to Washington, D.C., to protest, but they were denied an audience with the president. Yellow Thunder subsequently refused to remove. In 1840 U.S. troops arrested him. He was released shortly thereafter, and he and his followers were removed. The federal government continued removing Indians from the area throughout the next three decades, deporting them by rail or steamboat to Iowa, Nebraska, and Minnesota. The Ho-Chunks were moved several times over the ensuing years.

Acknowledging that resistance was futile, Yellow Thunder agreed to cooperate and move to reservation land. Tradition holds that he travelled back to his home and had to be removed again, a process that occurred four more times. Eventually he bought 40 acres of land in Dalton, Wisconsin. This purchase would, he believed, afford him exemption from further removal as he would be seen to be adopting “civilization.” Indeed, around the time of Yellow Thunder’s

death in 1874, government policy had begun to drift from removal toward an encouragement of static farming and Americanization. This policy was reflected in the creation of a Ho-Chunk reservation in Wisconsin from Homestead Act (1875) land.

See also *Homestead Act of 1862*; *Railroads*; *Removal*.

Sam Hitchmough

BIBLIOGRAPHY

- Diedrich, Mark. *Ho-Chunk Chiefs: Winnebago Leadership in an Era of Crisis*. Rochester, Minn.: Coyote Books, 2001.

Young, Brigham

Brigham Young (1801–1877) was the successor to Joseph Smith, the founder of The Church of Jesus Christ of Latter-Day Saints. Young directed the Mormon exodus from the East, reestablished the church in Utah, and served for a time as governor of Utah Territory.

Young was baptized in the Mormon Church in New York in 1832 and became a missionary and then an apostle in 1835. After Joseph Smith was killed in Carthage, Illinois, in 1844, Young succeeded him as president and held the position until his death in 1877. In the late 1840s, to escape the oppression Mormons were facing in the Midwest, Young led his followers to what he believed to be the Mormon promised land of Utah. Despite the difficulties met when the Mormons initially settled in Utah, Young envisioned a vast Mormon empire in the state and began sending missionaries around the world in hopes that they would return with converts. Tens of thousands came to the Utah Territory, and Young proceeded to establish Mormon colonies throughout the American West.

In 1850 Young was appointed governor of the Utah Territory, a responsibility that included the superintendency of Indian affairs. The way in which Young performed his duties was informed in part by the teachings of the Book of Mormon. The Book taught that Native Americans were descendents of a rebellious and sinful tribe of Israel called the Lamanites, who became plagued by dark skin because of their transgressions against God. Characterizations of Lamanites as natural aggressors provided justification for the Mormons to convert, assimilate, and at times join in armed conflict against Native communities. Once they joined the Mormon Church, however, Young believed Native people would be saved and within generations their

descendents would become, as Young described them, “white and delightful.”

Young believed it was the duty of the church to convert the Indians, introduce them to white methods of agriculture, and restore them to a place of favor with God. He directed that missionaries be sent to tribes throughout the West. Despite the fact that the U.S. government did not consider Mormonism to be an official religion and therefore barred its missionaries from the reservations, Mormon missionaries were rather successful, in part because some tribes invited the Mormons into their communities to offer instruction in Mormon and Anglo-American ways, which aided conversion. Additionally, at times the Mormons and Native people formed a common defense against the encroachments of other settlers.

Mormon missionary work, however, was not without conflict. In 1853 tensions between Ute Indians and missionaries sent to their community erupted in the Walker War, in which Ute members and nearby Mormon settlers were killed. As Mormon settlements expanded, the Utes and other tribes found their lands and foods in short supply. In 1857 a group of Mormons murdered a band of Arkansas pioneers at Mountain Meadows, Utah. Whether Young ordered the massacre remains unclear, but he did attempt to protect the assailants, and the church blamed the massacre on the Paiute Indians.

Young was replaced as Utah governor in 1858. He remained president of the church, however, and in that capacity he argued that Indians needed to be isolated from Mormon settlements. In 1861 President Abraham Lincoln established the Uintah Ute Reservation. Despite their internment, tensions continued with the Ute tribe and erupted into the Black Hawk War in 1865, a conflict that continued off and on for three years. Eventually, the Utes were driven back to their reservation.

By the time of his death, Young had built Utah into a prosperous Mormon stronghold and established more than one hundred settlements in the territory. While he developed peaceful relations with the tribes in the territory, his followers had dispossessed many Indian people of their land.

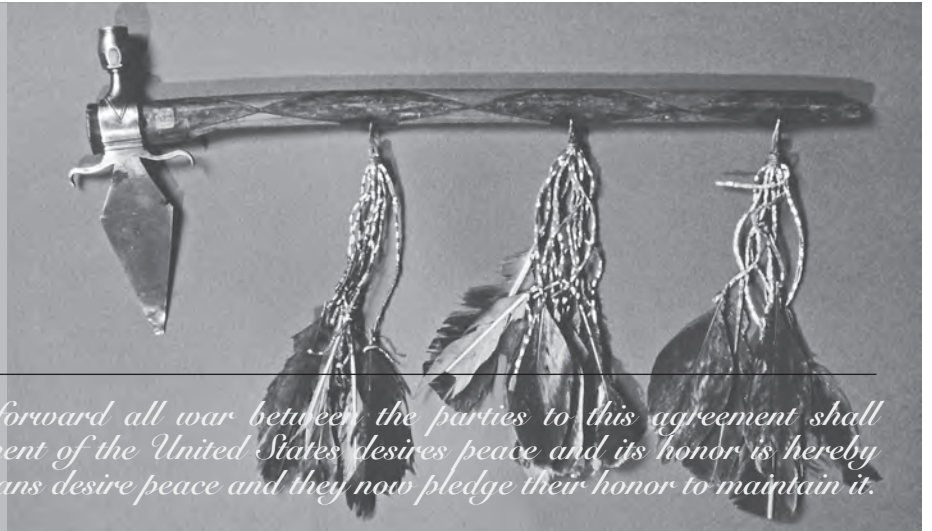
See also *Missions and Missionaries; Religious Freedom; Westward Migration.*

Kristin Teigen

BIBLIOGRAPHY

- Bagley, Will. *Blood of the Prophets: Brigham Young and the Massacre at Mountain Meadows*. Norman: University of Oklahoma Press, 2004.
- Larson, Gustav O. “Brigham Young and the Indians.” In Robert G. Ferris, ed., *The American West: An Appraisal*. Santa Fe, N.M.: Museum of New Mexico Press, 1963.
- Murphy, Thomas W. “From Racist Stereotype to Ethnic Identity: Instrumental Uses of Mormon Racial Doctrine.” *Ethnohistory* 46, no. 3 (Summer 1999): 451–480.

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Article 1. From this day forward all war between the parties to this agreement shall forever cease. The Government of the United States desires peace and its honor is hereby pledged to keep it. The Indians desire peace and they now pledge their honor to maintain it.

Zeisberger, David

David Zeisberger (1721–1808) was the best known of a German-speaking group of religious dissidents known as the Moravians, or the Unity of the Brethren, who came to British North America in the eighteenth century to evangelize to Indians.

In 1739 Zeisberger and the majority of the Moravians moved from James Oglethorpe's colony in Georgia to Pennsylvania and established a new colony in Bethlehem and several mission posts of limited success in Connecticut, New York, Pennsylvania, and Ohio. In the 1740s Zeisberger was accepted into the Mohawk community of Chief Hendrick, learned the Onondaga dialect of the Iroquois language, and worked to maintain peace between the colonists and the Indians, including negotiating a treaty between the Iroquois (Haudenosaunee) and the English. The Moravians' willingness to live among the Indians and their pacifist philosophy incurred the wrath of expansion-minded colonists.

Zeisberger was ordained as a minister in 1749. His missionary service spanned sixty-two years, mostly with the Delawares (Lenni Lenapes), although he befriended numerous tribes. He suffered constant displacements because of his work, as his survival depended on moving from one missionary post to another. He established Moravian Indian communities for his converts in Friedenstadt, Schönbrunn, and Gnadenhütten in the Ohio and Pennsylvania country. Zeisberger's doughty but diplomatic persona caused some to call him a benevolent despot because he imposed very strict religious laws on Christian Indians.

During the American Revolution, his Indian missions provoked hostilities with the British, the Americans, and their allied Indians. The British disliked Zeisberger's advocacy of Native rights and practice of establishing Christian Indian communities in the Ohio valley. In 1781 the British arrested Zeisberger, and American soldiers attacked Gnadenhütten, killing more than one hundred Christian Delawares and forcing the Moravians to reconsider their opposition to violence.

After the massacre and his release from prison, Zeisberger moved to Michigan. By the 1790s, he had returned to the Ohio country and established several missions. He remained at the Goshen mission on the Tuscarawas (Muskingum) River until his death in 1808.

See also *Missions and Missionaries; Religious Organizations and Indian Policy; U.S. Indian Policy: Congress and the Executive, 1775–1803.*

Rowena McClinton

BIBLIOGRAPHY

- de Schweinitz, David. *The Life and Times of David Zeisberger: The Western Pioneer and Apostle of the Indians*. Philadelphia: J.B. Lippincott and Co., 1870; reprint, New York: Arno Press, 1971.
- Wessel, Carola. "Connecting Congregations: The Net of Communication among the Moravians as Exemplified by the Interaction between Pennsylvania, the Upper Ohio, and Germany (1772–1774)." In *The Distinctiveness of Moravian Culture: Essays and Documents in Moravian History in Honor of Vernon H. Nelson on His Seventieth Birthday*, edited by Craig D. Atwood and Peter Vogt, 153–172. Nazareth, Pa.: Moravian Historical Society, 2003.
- Wessel, Carola, and Hermann Wellenreuter, eds. *The Moravian Mission Diaries of David Zeisberger*. University Park: Pennsylvania State University Press, 2005.

APPENDIX A

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Trade and Intercourse Act, July 22, 1790

Frontier violence quickly became a hallmark of the early history of the United States. Secretary of War Henry Knox and President George Washington asked Congress to enact legislation to mitigate the problem. In 1790 Congress acted to “regulate trade and intercourse with the Indian tribes.” This law and subsequent ones sought to facilitate and enforce various treaties in frontier areas against the objections of many white settlers. These laws are cornerstones of fundamental aspects of U.S. Indian policy.

An Act to regulate trade and intercourse with the Indian tribes.

SECTION 1. *Be it enacted . . .*, That no person shall be permitted to carry on any trade or intercourse with the Indian tribes, without a license for that purpose under the hand and seal of the superintendent of the department, or of such other person as the President of the United States shall appoint for that purpose; which superintendent, or other person so appointed, shall, on application, issue such license to any proper person, who shall enter into bond with one or more sureties, approved of by the superintendent, or person issuing such license, or by the President of the United States, in the penal sum of one thousand dollars, payable to the President of the United States for the time being, for the use of the United States, conditioned for the true and faithful observance of such rules, regulations and restrictions, as now are, or hereafter shall be made for the government of trade and intercourse with the Indian tribes. The said superintendents, and persons by them licensed as aforesaid, shall be governed in all things touching the said trade and intercourse, by such rules and regulations as the President shall prescribe. And no other person shall be permitted to carry on any trade or intercourse with the Indians without such license as aforesaid. No license shall be granted for a longer term than two years. *Provided nevertheless*, That the President may make such order respecting the tribes surrounded in their settlements by the citizens of the United States, as to secure an intercourse without license, if he may deem it proper.

SEC. 2. *And be it further enacted*, That the superintendent, or person issuing such license, shall have full power and authority to recall all such licenses as he may have issued, if the person so licensed shall transgress any of the regulations or restrictions provided for the government of trade and intercourse with the Indian tribes, and shall put in suit such bonds as he may have taken, immediately on the breach of any condition in said bond: *Provided always*, That if it shall appear on trial, that the person from whom such license shall have been recalled, has not offended against any of the provisions of this act, or the regulations prescribed for the trade and intercourse with the Indian tribes, he shall be entitled to receive a new license.

SEC. 3. *And be it further enacted*, That every person who shall attempt to trade with the Indian tribes, or be found in the Indian country with such merchandise in his possession as are usually vended to the Indians, without a license first had and obtained, as

in this act prescribed, and being convicted in any court proper to try the same, shall forfeit all the merchandise in his possession so offered for sale to the Indian tribes, or so found in the Indian country, which forfeiture shall be one half to the benefit of the person prosecuting, and the other half to the benefit of the United States.

SEC. 4. *And be it further enacted*, That no sale of lands made by any Indians, or any nation or tribe of Indians within the United States, shall be valid to any person or persons, or to any state, whether having the right of pre-emption to such lands or not, unless the same shall be made and duly executed at some public treaty, held under the authority of the United States.

SEC. 5. *And be it further enacted*, That if any citizen or inhabitant of the United States, or of either of the territorial districts of the United States, shall go into any town, settlement or territory belonging to any nation or tribe of Indians, and shall there commit any crime upon, or trespass against, the person or property of any peaceable and friendly Indian or Indians, which, if committed within the jurisdiction of any state, or within the jurisdiction of either of the said districts, against a citizen or white inhabitant thereof, would be punishable by the laws of such state or district, such offender or offenders shall be subject to the same punishment, and shall be proceeded against in the same manner as if the offence had been committed within the jurisdiction of the state or district to which he or they may belong, against a citizen or white inhabitant thereof.

SEC. 6. *And be it further enacted*, That for any of the crimes or offences aforesaid, the like proceedings shall be had for apprehending, imprisoning or bailing the offender, as the case may be, and for recognizing the witnesses for their appearance to testify in the case, and where the offender shall be committed, or the witnesses shall be in a district other than that in which the offence is to be tried, for the removal of the offender and the witnesses or either of them, as the case may be, to the district in which the trial is to be had, as by the act to establish the judicial courts of the United States, are directed for any crimes or offences against the United States.

SEC. 7. *And be it further enacted*, That this act shall be in force for the term of two years, and from thence to the end of the next session of Congress, and no longer.

SOURCE: *U.S. Statutes at Large*, 1:137–138.

Creation of a Bureau of Indian Affairs in the War Department, March 11, 1824

In 1824, without congressional sanction, Secretary of War John C. Calhoun established the Bureau of Indian Affairs in the War Department. Calhoun made Thomas L. McKenney head of the new office. McKenney served in that capacity until 1830, when President Andrew Jackson dismissed him. In 1832 Congress designated a permanent commissioner of Indian affairs.

Department of War, March 11th, 1824

SIR: To you are assigned the duties [of] the Bureau of Indian Affairs in this Department, for the faithful performance of which you will be responsible. Mr. Hamilton and Mr. Miller are assigned to you, the former as chief, and the latter as assistant clerk.

You will take charge of the appropriations for annuities, and of the current expenses, and all warrants on the same will be issued on your requisitions on the Secretary of War, taking special care that no requisition be issued, but in cases where the money previously remitted has been satisfactorily accounted for, and on estimates in detail, approved by you, for the sum required. You will receive and examine the accounts and vouchers for the expenditure thereof, and will pass them over to the proper Auditor's Office for settlement, after examination and approval by you; submitting such items for the sanction of this Department as may require its approval. The administration of the fund for the civilization of the Indians is also committed to your charge, under the regulations

established by the Department. You are also charged with the examination of the claims arising out of the laws regulating the intercourse with Indian Tribes, and will, after examining and briefing the same, report them to this Department, endorsing a recommendation for their allowance or disallowance.

The ordinary correspondence with the superintendents, the agents, and sub-agents, will pass through your Bureau.

I have the honor to be,
Your obedient servant,
J. C. Calhoun

Thos. L. McKenney, Esq.

SOURCE: House Document 146, 19th Cong., 1st sess., serial 138, p. 6.

Indian Removal Act, May 28, 1830

After considerable debate in the press and Congress during the 1820s, Congress passed the Indian Removal Act, empowering President Andrew Jackson to negotiate removal treaties with American Indian nations east of the Mississippi River. Native American nations were to exchange lands in the East for lands in the trans-Mississippi West. To fund this policy, Congress appropriated \$500,000. Subsequently, American Indians in the East were removed with often disastrous and genocidal consequences.

An Act to provide for an exchange of lands with the Indians residing in any of the states or territories. And for their removal west of the river Mississippi.

Be it enacted . . ., That it shall and may be lawful for the President of the United States to cause so much of any territory belonging to the United States, west of the river Mississippi, not included in any state or organized territory, and to which the Indian title has been extinguished, as he may judge necessary, to be divided into a suitable number of districts, for the reception of such tribes or nations of Indians as may choose to exchange the lands where they now reside, and remove there; and to cause each of said

districts to be so described by natural or artificial marks, as to be easily distinguished from every other.

SEC. 2. *And be it further enacted*, That it shall and may be lawful for the President to exchange any or all of such districts, so to be laid off and described, with any tribe or nation of Indians now residing within the limits of any of the states or territories, and with which the United States have existing treaties, for the whole or any part or portion of the territory claimed and occupied by such tribe or

nation, within the bounds of any one or more of the states or territories, where the land claimed and occupied by the Indians, is owned by the United States, or the United States are bound to the state within which it lies to extinguish the Indian claim thereto.

SEC. 3. *And be it further enacted*, That in the making of any such exchange or exchanges, it shall and may be lawful for the President solemnly to assure the tribe or nation with which the exchange is made, that the United States will forever secure and guaranty to them, and their heirs or successors, the country so exchanged with them; and if they prefer it, that the United States will cause a patent or grant to be made and executed to them for the same: *Provided always*, That such lands shall revert to the United States, if the Indians become extinct, or abandon the same.

SEC. 4. *And be it further enacted*, That if, upon any of the lands now occupied by the Indians, and to be exchanged for, there should be such improvements as add value to the land claimed by any individual or individuals of such tribes or nations, it shall and may be lawful for the President to cause such value to be ascertained by appraisement or otherwise, and to cause such ascertained value to be paid to the person or persons rightfully claiming such improvements. And upon the payment of such valuation, the improvements so valued and paid for, shall pass to the United States, and possession shall not afterwards be permitted to any of the same tribe.

SEC. 5. *And be it further enacted*, That upon the making of any such exchange as is contemplated by this act, it shall and may be

lawful for the President to cause such aid and assistance to be furnished to the emigrants as may be necessary and proper to enable them to remove to, and settle in, the country for which they may have exchanged; and also, to give them such aid and assistance as may be necessary for their support and subsistence for the first year after their removal.

SEC. 6. *And be it further enacted*, That it shall and may be lawful for the President to cause such tribe or nation to be protected, at their new residence, against all interruption or disturbance from any other tribe or nation of Indians, or from any other person or persons whatever.

SEC. 7. *And be it further enacted*, That it shall and may be lawful for the President to have the same superintendence and care over any tribe or nation in the country to which they may remove, as contemplated by this act, that he is now authorized to have over them at their present places of residence: *Provided*, That nothing in this act contained shall be construed as authorizing or directing the violation of any existing treaty between the United States and any of the Indian tribes.

SEC. 8. *And be it further enacted*, That for the purpose of giving effect to the provisions of this act, the sum of five hundred thousand dollars is hereby appropriated, to be paid out of any money in the treasury, not otherwise appropriated.

SOURCE: *U.S. Statutes at Large*, 4:411–412.

President Ulysses S. Grant's Peace Policy, December 5, 1870

To stop corruption in Indian affairs by crooked Indian agents and the political patronage system, President Ulysses S. Grant ordered Indian agencies to work with religious groups. These sects appointed agents, teachers, and other personnel. In 1870 Grant explained his actions in his second annual message to Congress.

Reform in the management of Indian affairs has received the special attention of the Administration from its inauguration to the present day. The experiment of making it a missionary work was tried with a few agencies given to the denomination of Friends, and has been found to work most advantageously. All agencies and superintendencies not so disposed of were given to officers of the Army. The act of Congress reducing the Army renders army officers ineligible for civil positions. Indian agencies being civil offices, I determined to give all the agencies to such religious denominations as had heretofore established missionaries among the Indians, and perhaps to some other denominations who would undertake the work on the same terms—i.e., as a missionary work. The societies selected are allowed to name their own agents, subject to the approval of the Executive, and are expected to watch over them and aid them as missionaries, to Christianize and civilize the

Indian, and to train him in the arts of peace. The Government watches over the official acts of these agents, and requires of them as strict an accountability as if they were appointed in any other manner. I entertain the confident hope that the policy now pursued will in a few years bring all the Indians upon reservations, where they will live in houses, and have schoolhouses and churches, and will be pursuing peaceful and self-sustaining avocations, and where they may be visited by the law-abiding white man with the same impunity that he now visits the civilized white settlements. I call your special attention to the report of the Commissioner of Indian Affairs for full information on this subject. . . .

SOURCE: *Messages and Papers of the Presidents*, comp. James D. Richardson (New York: Bureau of National Literature, 1897), 7:109–110.

Abolition of Treaty Making, March 3, 1871

The Senate originally held treaty-making powers with American Indians. In 1871 in a rider to an Indian appropriations bill, the House of Representatives forbade further treaty making with American Indians. This unilateral action, taken without consultation with American Indian nations, changed the process of treaty making in the Senate to the negotiation of “executive agreements” ratified by both houses of Congress.

An Act making Appropriations for the current and contingent Expenses of the Indian Department. . . .

Yankton Tribe of Sioux.— . . . For insurance and transportation of goods for the Yanktons, one thousand five hundred dollars: *Provided*, That hereafter no Indian nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty: *Provided, further*, That noth-

ing herein contained shall be construed to invalidate or impair the obligation of any treaty heretofore lawfully made and ratified with any such Indian nation or tribe. . . .

SOURCE: *U.S. Statutes at Large*, 16:566.

Major Crimes Act, March 3, 1885

In order to stop the release by federal courts of Native Americans based on Ex Parte Crow Dog (1883) (Doc. 32), Congress passed a law giving federal courts jurisdiction over seven major crimes committed by one Native American against another on reservations. This legislation represented an attack on the autonomy of traditional Native American governments.

An Act making appropriations for the current and contingent expenses of the Indian Department.

SEC. 9. That immediately upon and after the date of the passage of this act all Indians, committing against the person or property of another Indian or other person any of the following crimes, namely, murder, manslaughter, rape, assault with intent to kill, arson, burglary, and larceny within any Territory of the United States, and either within or without an Indian reservation, shall be subject therefor to the laws of such Territory relating to said crimes, and shall be tried therefor in the same courts and in the same manner and shall be subject to the same penalties as are all other persons charged with the commission of said crimes, respectively; and the

said courts are hereby given jurisdiction in all such cases; and all such Indians committing any of the above crimes against the person or property of another Indian or other person within the boundaries of any State of the United States, and within the limits of any Indian reservation, shall be subject to the same laws, tried in the same courts and in the same manner and subject to the same penalties as are all other persons committing any of the above crimes within the exclusive jurisdiction of the United States.

SOURCE: *U.S. Statutes at Large*, 23:385.

General Allotment Act (Dawes Act), February 8, 1887

By the late nineteenth century, reformers were demanding that reservations be divided into family farms, replacing Native Americans' communal holdings of land with an ethnocidal policy of Euro-American agriculture and capitalism. To implement this policy, Congress passed the General Allotment Act of 1887, also known as the Dawes Act. It empowered the president to begin allotting land on reservations and declare recipients of allotments to be U.S. citizens.

An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes.

Be it enacted . . ., That in all cases where any tribe or band of Indians has been, or shall hereafter be, located upon any reservation created for their use, either by treaty stipulation or by virtue of an act of Congress or executive order setting apart the same for their use, the President of the United States be, and he hereby is, authorized, whenever in his opinion any reservation or any part thereof of such Indians is advantageous for agricultural and grazing purposes, to cause said reservation, or any part thereof, to be surveyed, or resurveyed if necessary, and to allot the lands in said reservation in severalty to any Indian located thereon in quantities as follows:

To each head of a family, one-quarter of a section;

To each single person over eighteen years of age, one-eighth of a section;

To each orphan child under eighteen years of age, one-eighth of a section; and

To each other single person under eighteen years now living, or who may be born prior to the date of the order of the President directing an allotment of the lands embraced in any reservation, one-sixteenth of a section: *Provided*, That in case there is not sufficient land in any of said reservations to allot lands to each individual of the classes above named in quantities as above provided, the lands embraced in such reservation or reservations shall be allotted to each individual of each of said classes pro rata in accordance with the provisions of this act: *And provided further*, That where the treaty or act of Congress setting apart such reservation provides for the allotment of lands in severalty in quantities in excess of those herein provided, the President, in making allotments upon such reservation, shall allot the lands to each individual Indian belonging thereon in quantity as specified in such treaty or act: *And provided further*, That when the lands allotted are only valuable for grazing purposes, an additional allotment of such grazing lands, in quantities as above provided, shall be made to each individual.

SEC. 2. That all allotments set apart under the provisions of this act shall be selected by the Indians, heads of families selecting for their minor children, and the agents shall select for each orphan child, and in such manner as to embrace the improvements of the

Indians making the selection. Where the improvements of two or more Indians have been made on the same legal subdivision of land, unless they shall otherwise agree, a provisional line may be run dividing said lands between them, and the amount to which each is entitled shall be equalized in the assignment of the remainder of the land to which they are entitled under this act: *Provided*, That if any one entitled to an allotment shall fail to make a selection within four years after the President shall direct that allotments may be made on a particular reservation, the Secretary of the Interior may direct the agent of such tribe or band, if such there be, and if there be no agent, then a special agent appointed for that purpose, to make a selection for such Indian, which selection shall be allotted as in cases where selections are made by the Indians, and patents shall issue in like manner.

SEC. 3. That the allotments provided for in this act shall be made by special agents appointed by the President for such purpose, and the agents in charge of the respective reservations on which the allotments are directed to be made, under such rules and regulations as the Secretary of the Interior may from time to time prescribe, and shall be certified by such agents to the Commissioner of Indian Affairs, in duplicate, one copy to be retained in the Indian Office and the other to be transmitted to the Secretary of the Interior for his action, and to be deposited in the General Land Office.

SEC. 4. That where any Indian not residing upon a reservation, or for whose tribe no reservation has been provided by treaty, act of Congress, or executive order, shall make settlement upon any surveyed or unsurveyed lands of the United States not otherwise appropriated, he or she shall be entitled, upon application to the local land-office for the district in which the lands are located, to have the same allotted to him or her, and to his or her children, in quantities and manner as provided in this act for Indians residing upon reservations; and when such settlement is made upon unsurveyed lands, the grant to such Indians shall be adjusted upon the survey of the lands so as to conform thereto; and patents shall be issued to them for such lands in the manner and with the restrictions as herein provided. And the fees to which the officers of such local land-office would have been entitled had such lands been entered under the general laws for the disposition of the public lands shall be paid to them, from any moneys in the Treasury of the United States not otherwise appropriated, upon a statement of an

account in their behalf for such fees by the Commissioner of the General Land Office, and a certification of such account to the Secretary of the Treasury by the Secretary of the Interior.

SEC. 5. That upon the approval of the allotments provided for in this act by the Secretary of the Interior, he shall cause patents to issue therefor in the name of the allottees, which patents shall be of the legal effect, and declare that the United States does and will hold the land thus allotted, for the period of twenty-five years, in trust for the sole use and benefit of the Indian to whom such allotment shall have been made, or, in case of his decease, of his heirs according to the laws of the State or Territory where such land is located, and that at the expiration of said period the United States will convey the same by patent to said Indian, or his heirs as aforesaid, in fee, discharged of said trust and free of all charge or incumbrance whatsoever: *Provided*, That the President of the United States may in any case in his discretion extend the period. And if any conveyance shall be made of the lands set apart and allotted as herein provided, or any contract made touching the same, before the expiration of the time above mentioned, such conveyance or contract shall be absolutely null and void: *Provided*, That the law of descent and partition in force in the State or Territory where such lands are situated shall apply thereto after patents therefor have been executed and delivered, except as herein otherwise provided; and the laws of the State of Kansas regulating the descent and partition of real estate shall, so far as practicable, apply to all lands in the Indian Territory which may be allotted in severalty under the provisions of this act: *And provided further*, That at any time after lands have been allotted to all the Indians of any tribe as herein provided, or sooner if in the opinion of the President it shall be for the best interests of said tribe, it shall be lawful for the Secretary of the Interior to negotiate with such Indian tribe for the purchase and release by said tribe, in conformity with the treaty or statute under which such reservation is held, of such portions of its reservation not allotted as such tribe shall, from time to time, consent to sell, on such terms and conditions as shall be considered just and equitable between the United States and said tribe of Indians, which purchase shall not be complete until ratified by Congress, and the form and manner of executing such release shall also be prescribed by Congress: *Provided however*, That all lands adapted to agriculture, with or without irrigation so sold or released to the United States by any Indian tribe shall be held by the United States for the sole purpose of securing homes to actual settlers and shall be disposed of by the United States to actual and bona fide settlers only in tracts not exceeding one hundred and sixty acres to any one person, on such terms as Congress shall prescribe, subject to grants which Congress may make in aid of education: *And provided further*, That no patents shall issue therefor except to the person so taking the same as and for a homestead, or his heirs, and after the expiration of five years occupancy thereof as such homestead; and any conveyance of said lands so taken as a homestead, or any contract touching the same, or lien thereon, created prior to the date of such patent, shall be null and void. And the sums agreed to be paid by the United States as purchase money for any portion of any such reservation shall be held

in the Treasury of the United States for the sole use of the tribe or tribes of Indians; to whom such reservations belonged; and the same, with interest thereon at three per cent per annum, shall be at all times subject to appropriation by Congress for the education and civilization of such tribe or tribes of Indians or the members thereof. The patents aforesaid shall be recorded in the General Land Office, and afterward delivered, free of charge, to the allottee entitled thereto. And if any religious society or other organization is now occupying any of the public lands to which this act is applicable, for religious or educational work among the Indians, the Secretary of the Interior is hereby authorized to confirm such occupation to such society or organization, in quantity not exceeding one hundred and sixty acres in any one tract, so long as the same shall be so occupied, on such terms as he shall deem just; but nothing herein contained shall change or alter any claim of such society for religious or educational purposes heretofore granted by law. And hereafter in the employment of Indian police, or any other employees in the public service among any of the Indian tribes or bands affected by this act, and where Indians can perform the duties required, those Indians who have availed themselves of the provisions of this act and become citizens of the United States shall be preferred.

SEC. 6. That upon the completion of said allotments and the patenting of the lands to said allottees, each and every member of the respective bands or tribes of Indians to whom allotments have been made shall have the benefit of and be subject to the laws, both civil and criminal, of the State or Territory in which they may reside; and no Territory shall pass or enforce any law denying any such Indian within its jurisdiction the equal protection of the law. And every Indian born within the territorial limits of the United States to whom allotments shall have been made under the provisions of this act, or under any law or treaty, and every Indian born within the territorial limits of the United States who has voluntarily taken up, within said limits, his residence separate and apart from any tribe of Indians therein, and has adopted the habits of civilized life, is hereby declared to be a citizen of the United States, and is entitled to all the rights, privileges, and immunities of such citizens, whether said Indian has been or not, by birth or otherwise, a member of any tribe of Indians within the territorial limits of the United States without in any manner impairing or otherwise affecting the right of any such Indian to tribal or other property.

SEC. 7. That in cases where the use of water for irrigation is necessary to render the lands within any Indian reservation available for agricultural purposes, the Secretary of the Interior be, and he is hereby, authorized to prescribe such rules and regulations as he may deem necessary to secure a just and equal distribution thereof among the Indians residing upon any such reservations; and no other appropriation or grant of water by any riparian proprietor shall be authorized or permitted to the damage of any other riparian proprietor.

SEC. 8. That the provision of this act shall not extend to the territory occupied by the Cherokees, Creeks, Choctaws, Chickasaws, Seminoles, and Osage, Miamies and Peorias, and Sacs and Foxes, in the Indian Territory, nor to any of the reservations of the Seneca Nation of New York Indians in the State of New York, nor to that

strip of territory in the State of Nebraska adjoining the Sioux Nation on the south added by executive order.

SEC. 9. That for the purpose of making the surveys and resurveys mentioned in section two of this act, there be, and hereby is, appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of one hundred thousand dollars, to be repaid proportionately out of the proceeds of the sales of such land as may be acquired from the Indians under the provisions of this act.

SEC. 10. That nothing in this act contained shall be so construed as to affect the right and power of Congress to grant the right of way through any lands granted to an Indian, or a tribe of

Indians, for railroads or other highways, or telegraph lines, for the public use, or to condemn such lands to public uses, upon making just compensation.

SEC. 11. That nothing in this act shall be so construed as to prevent the removal of the Southern Ute Indians from their present reservation in Southwestern Colorado to a new reservation by and with the consent of a majority of the adult male members of said tribe.

SOURCE: *U.S. Statutes at Large*, 24:388–391.

Indian Citizenship Act, June 2, 1924

In 1924 Congress unilaterally made citizens all Native Americans born in the United States who had not been granted citizenship under previous legislative provisions. Many Native American groups protested this act, which they thought would erode their treaty rights.

An Act To authorize the Secretary of the Interior to issue certificates of citizenship to Indians.

Be it enacted . . ., That all non-citizen Indians born within the territorial limits of the United States be, and they are hereby, declared to be citizens of the United States:

Provided, That the granting of such citizenship shall not in any manner impair or otherwise affect the right of any Indian to tribal or other property.

SOURCE: *U.S. Statutes at Large*, 43:253.

Indian Reorganization Act, June 18, 1934

The Indian Reorganization Act of 1934, also known as the Wheeler-Howard Act, brought a halt to the allotment of reservation lands and sought to sustain American Indian tribal organizations. It was the culmination of the American Indian reform movement begun in the 1920s by John Collier when he was executive director of the American Indian Defense Association. President Franklin Delano Roosevelt appointed Collier commissioner of Indian affairs in 1933. Collier championed Wheeler-Howard.

An Act to conserve and develop Indian lands and resources; to extend to Indians the right to form business and other organizations; to establish a credit system for Indians; to grant certain rights of home rule to Indians; to provide for vocational education for Indians; and for other purposes.

Be it enacted . . ., That hereafter no land of any Indian reservation, created or set apart by treaty or agreement with the Indians, Act of Congress, Executive order, purchase, or otherwise, shall be allotted in severalty to any Indian.

SEC. 2. The existing periods of trust placed upon any Indian lands and any restriction on alienation thereof are hereby extended and continued until otherwise directed by Congress.

SEC. 3. The Secretary of the Interior, if he shall find it to be in the public interest, is hereby authorized to restore to tribal ownership the remaining surplus lands of any Indian reservation heretofore opened, or authorized to be opened, to sale, or any other form of disposal by Presidential proclamation, or by any of the public land laws of the United States: *Provided*, however, That valid rights or claims of any persons to any lands so withdrawn

existing on the date of the withdrawal shall not be affected by this Act: . . .

SEC. 4. Except as herein provided no sale, devise, gift, exchange or other transfer of restricted Indian lands or of shares in the assets of any Indian tribe or corporation organized hereunder, shall be made or approved: *Provided, however,* That such lands or interests may, with the approval of the Secretary of the Interior, be sold, devised or otherwise transferred to the Indian tribe in which the lands or shares are located or from which the shares were derived or to a successor corporation; and in all instances such lands or interests shall descend or be devised, in accordance with the then existing laws of the State, or Federal laws where applicable, in which said lands are located or in which the subject matter of the corporation is located, to any member of such tribe or of such corporation or any heirs of such member: *Provided further,* That the Secretary of the Interior may authorize voluntary exchanges of lands of equal value and the voluntary exchange of shares of equal value whenever such exchange, in his judgment, is expedient and beneficial for or compatible with the proper consolidation of Indian lands and for the benefit of cooperative organizations.

SEC. 5. The Secretary of the Interior is hereby authorized, in his discretion, to acquire through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights or surface rights to lands, within or without existing reservations, including trust or otherwise restricted allotments whether the allottee be living or deceased, for the purpose of providing land for Indians.

For the acquisition of such lands, interests in lands, water rights, and surface rights, and for expenses incident to such acquisition, there is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, a sum not to exceed \$2,000,000 in any one fiscal year: . . .

The unexpended balances of any appropriations made pursuant to this section shall remain available until expended.

Title to any lands or rights acquired pursuant to this Act shall be taken in the name of the United States in trust for the Indian tribe or individual Indian for which the land is acquired, and such lands or rights shall be exempt from State and local taxation.

SEC. 6. The Secretary of the Interior is directed to make rules and regulations for the operation and management of Indian forestry units on the principle of sustained-yield management, to restrict the number of livestock grazed on Indian range units to the estimated carrying capacity of such ranges, and to promulgate such other rules and regulations as may be necessary to protect the range from deterioration, to prevent soil erosion, to assure full utilization of the range, and like purposes.

SEC. 7. The Secretary of the Interior is hereby authorized to proclaim new Indian reservations on lands acquired pursuant to any authority conferred by this Act, or to add such lands to existing reservations: *Provided,* That lands added to existing reservations shall be designated for the exclusive use of Indians entitled by enrollment or by tribal membership to residence at such reservations.

SEC. 8. Nothing contained in this Act shall be construed to relate to Indian holdings of allotments or homesteads upon the

public domain outside of the geographic boundaries of any Indian reservation now existing or established hereafter.

SEC. 9. There is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, such sums as may be necessary, but not to exceed \$250,000 in any fiscal year, to be expended at the order of the Secretary of the Interior, in defraying the expenses of organizing Indian chartered corporations or other organizations created under this Act. . . .

SEC. 10. There is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, the sum of \$10,000,000 to be established as a revolving fund from which the Secretary of the Interior, under such rules and regulations as he may prescribe, may make loans to Indian chartered corporations for the purpose of promoting the economic development of such tribes and of their members, and may defray the expenses of administering such loans. Repayment of amounts loaned under this authorization shall be credited to the revolving fund and shall be available for the purposes for which the fund is established. A report shall be made annually to Congress of transactions under this authorization.

SEC. 11. There is hereby authorized to be appropriated, out of any funds in the United States Treasury not otherwise appropriated, a sum not to exceed \$250,000 annually, together with any unexpended balances of previous appropriations made pursuant to this section, for loans to Indians for the payment of tuition and other expenses in recognized vocational and trade schools: *Provided,* That not more than \$50,000 of such sum shall be available for loans to Indian students in high schools and colleges. Such loans shall be reimbursable under rules established by the Commissioner of Indian Affairs.

SEC. 12. The Secretary of the Interior is directed to establish standards of health, age, character, experience, knowledge, and ability for Indians who may be appointed, without regard to civil-service laws, to the various positions maintained, now or hereafter, by the Indian Office, in the administration of functions or services affecting any Indian tribe. Such qualified Indians shall hereafter have the preference to appointment to vacancies in any such positions.

SEC. 13. The provisions of this Act shall not apply to any of the Territories, colonies, or insular possessions of the United States, except that sections 9, 10, 11, 12, and 16, shall apply to the Territory of Alaska: *Provided,* That Sections 2, 4, 7, 16, 17, and 18 of this Act shall not apply to the following-named Indian tribes, the members of such Indian tribes, together with members of other tribes affiliated with such named tribes located in the State of Oklahoma, as follows: Cheyenne, Arapaho, Apache, Comanche, Kiowa, Caddo, Delaware, Wichita, Osage, Kaw, Otoe, Tonkawa, Pawnee, Ponca, Shawnee, Ottawa, Quapaw, Seneca, Wyandotte, Iowa, Sac and Fox, Kickapoo, Pottawatomi, Cherokee, Chickasaw, Choctaw, Creek, and Seminole. Section 4 of this Act shall not apply to the Indians of the Klamath Reservation in Oregon.

SEC. 14. [Listing of provisions pertaining to Sioux allotments]

SEC. 15. Nothing in this Act shall be construed to impair or prejudice any claim or suit of any Indian tribe against the United States. It is hereby declared to be the intent of Congress that no expenditures for the benefit of Indians made out of appropriations authorized by this Act shall be considered as offsets in any suit

brought to recover upon any claim of such Indians against the United States.

SEC. 16. Any Indian tribe, or tribes, residing on the same reservation, shall have the right to organize for its common welfare, and may adopt an appropriate constitution and bylaws, which shall become effective when ratified by a majority vote of the adult members of the tribe, or of the adult Indians residing on such reservation, as the case may be, at a special election authorized and called by the Secretary of the Interior under such rules and regulations as he may prescribe. Such constitution and bylaws when ratified as aforesaid and approved by the Secretary of the Interior shall be revocable by an election open to the same voters and conducted in the same manner as herein above provided. Amendments to the constitution and bylaws may be ratified and approved by the Secretary in the same manner as the original constitution and bylaws.

In addition to all powers vested in any Indian tribe or tribal council by existing law, the constitution adopted by said tribe shall also vest in such tribe or its tribal council the following rights and powers: To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior; to prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe; and to negotiate with the Federal, State, and local Governments. The Secretary of the Interior shall advise such tribe or its tribal council of all appropriation estimates or Federal projects for the benefit of the tribe prior to the submission of such estimates to the Bureau of the Budget and the Congress.

SEC. 17. The Secretary of the Interior may, upon petition by at least one-third of the adult Indians, issue a charter of incorporation to such tribe: *Provided*, That such charter shall not become operative until ratified at a special election by a majority vote of the adult

Indians living on the reservation. Such charter may convey to the incorporated tribe the power to purchase, take by gift, or bequest, or otherwise, own, hold, manage, operate, and dispose of property of every description, real and personal, including the power to purchase restricted Indian lands and to issue in exchange therefor interests in corporate property, and such further powers as may be incidental to the conduct of corporate business, not inconsistent with law, but no authority shall be granted to sell, mortgage, or lease for a period exceeding ten years any of the land included in the limits of the reservation. Any charter so issued shall not be revoked or surrendered except by Act of Congress.

SEC. 18. This Act shall not apply to any reservation wherein a majority of the adult Indians, voting at a special election duly called by the Secretary of the Interior, shall vote against its application. It shall be the duty of the Secretary of the Interior, within one year after the passage and approval of this Act, to call such an election which election shall be held by secret ballot upon thirty days' notice.

SEC. 19. The term "Indian" as used in this Act shall include all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction, and all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation and shall further include all other persons of one-half or more Indian blood. For the purposes of this Act, Eskimos and other aboriginal peoples of Alaska shall be considered Indians. The term "tribe" wherever used in this Act shall be construed to refer to any Indian tribe, organized band, pueblo, or the Indians residing on one reservation. The words "adult Indians" wherever used in this Act shall be construed to refer to Indians who have attained the age of twenty-one years.

SOURCE: *U.S. Statutes at Large*, 48:984-988.

Indian Claims Commission Act, August 13, 1946

Because Native Americans had difficulties filing suit against the United States in the U.S. Court of Claims, in 1946 Congress created the Indian Claims Commission to hear American Indian grievances.

An Act To create an Indian Claims Commission, to provide for the powers, duties, and functions thereof, and for other purposes.

Be it enacted . . ., That there is hereby created and established an Indian Claims Commission, hereafter referred to as the Commission.

SEC. 2. The Commission shall hear and determine the following claims against the United States on behalf of any Indian tribe, band, or other identifiable group of American Indians residing within the territorial limits of the United States or Alaska: (1) claims in law or equity arising under the Constitution, laws, treaties of the United States, and Executive orders of the President; (2) all other claims in law or equity, including those sounding in tort, with respect to which the claimant would have been entitled to sue

in a court of the United States if the United States was subject to suit; (3) claims which would result if the treaties, contracts, and agreements between the claimant and the United States were revised on the ground of fraud, duress, unconscionable consideration, mutual or unilateral mistake, whether of law or fact, or any other ground cognizable by a court of equity; (4) claims arising from the taking by the United States, whether as the result of a treaty of cession or otherwise, of lands owned or occupied by the claimant without the payment for such lands of compensation agreed to by the claimant; and (5) claims based upon fair and honorable dealings that are not recognized by any existing rule of law

or equity. No claim accruing after the date of the approval of this Act shall be considered by the Commission.

All claims hereunder may be heard and determined by the Commission notwithstanding any statute of limitations or laches, but all other defenses shall be available to the United States.

In determining the quantum of relief the Commission shall make appropriate deductions for all payments made by the United States on the claim, and for all other offsets, counterclaims, and demands that would be allowable in a suit brought in the Court of Claims under section 145 of the Judicial Code (36 Stat. 1136; 28 U.S.C. sec. 250), as amended; the Commission may also inquire into and consider all money or property given to or funds expended gratuitously for the benefit of the claimant and if it finds that the nature of the claim and the entire course of dealings and accounts between the United States and the claimant in good conscience warrants such action, may set off all or part of such expenditures against any award made to the claimant, except that it is hereby declared to be the policy of Congress that monies spent for the removal of the claimant from one place to another at the request of the United States, or for agency or other administrative, educational, health or highway purposes, or for expenditures made prior to the date of the law, treaty or Executive Order under which the claim arose, or for expenditures made pursuant to the Act of June 18, 1934 (48 Stat. 984), save expenditures made under section 5 of that Act, or for expenditures under any emergency appropriation or allotment made subsequent to March 4, 1933, and generally applicable throughout the United States for relief in stricken agricultural areas, relief from distress caused by unemployment and conditions resulting therefrom, the prosecution of public work and public projects for the relief of unemployment or to increase employment, and for work relief (including the Civil Works Program) shall not be a proper offset against any award. . . .

SEC. 10. Any claim within the provisions of this Act may be presented to the Commission by any member of an Indian tribe, band, or other identifiable group of Indians as the representative of all its members; but wherever any tribal organization exists, recognized by the Secretary of the Interior as having authority to represent such tribe, band, or group, such organization shall be accorded the exclusive privilege of representing such Indians, unless fraud, collusion, or laches on the part of such organization be shown to the satisfaction of the Commission. . . .

SEC. 13. (a) As soon as practicable the Commission shall send a written explanation of the provisions of this Act to the recognized head of each Indian tribe and band, and to any other identifiable groups of American Indians existing as distinct entities, residing within the territorial limits of the United States and Alaska, and to

the superintendents of all Indian agencies who shall promulgate the same, and shall request that a detailed statement of all claims be sent to the Commission, together with the names of aged or invalid Indians from whom depositions should be taken immediately and a summary of their proposed testimonies.

SEC. 14. The Commission shall have the power to call upon any of the departments of the Government for any information it may deem necessary, and shall have the use of all records, hearings, and reports made by the committees of each House of Congress, when deemed necessary in the prosecution of its business.

At any hearing held hereunder, any official letter, paper, document, map, or record in the possession of any officer or department, or court of the United States or committee of Congress (or a certified copy thereof), may be used in evidence insofar as relevant and material, including any deposition or other testimony of record in any suit or proceeding in any court of the United States to which an Indian or Indian tribe or group was a party, and the appropriate department of the Government of the United States shall give to the attorneys for all tribes or groups full and free access to such letters, papers, documents, maps, or records as may be useful to said attorneys in the preparation of any claim instituted hereunder, and shall afford facilities for the examination of the same and, upon written request by said attorneys, shall furnish certified copies thereof.

SEC. 15. Each such tribe, band, or other identifiable group of Indians may retain to represent its interests in the presentation of claims before the Commission an attorney or attorneys at law, of its own selection, whose practice before the Commission shall be regulated by its adopted procedure. The fees of such attorney or attorneys for all services rendered in prosecuting the claim in question, whether before the Commission or otherwise, shall, unless the amount of such fees is stipulated in the approved contract between the attorney or attorneys and the claimant, be fixed by the Commission at such amount as the Commission, in accordance with standards obtaining for prosecuting similar contingent claims in courts of law, finds to be adequate compensation for services rendered and results obtained, considering the contingent nature of the case, plus all reasonable expenses incurred in the prosecution of the claim; but the amount so fixed by the Commission, exclusive of reimbursements for actual expenses, shall not exceed 10 per centum of the amount recovered in any case.

The Attorney General or his assistants shall represent the United States in all claims presented to the Commission.

SOURCE: *U.S. Statutes at Large*, 60:1049–1056.

House Concurrent Resolution 108, August 1, 1953

In 1953 Congress stated its intent to abolish federal supervision of Native Americans by abolishing treaties with certain Indian nations and subjecting American Indian individuals to the same privileges, responsibilities, and laws extended to other U.S. citizens. After passage of House Concurrent Resolution 108, the federal government began to “terminate” its relations with selected Native American nations with which it had treaties. American Indians voiced strong opposition to the implementation of this unilateral federal policy.

Whereas it is the policy of Congress, as rapidly as possible, to make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, to end their status as wards of the United States, and to grant them all of the rights and prerogatives pertaining to American citizenship; and

Whereas the Indians within the territorial limits of the United States should assume their full responsibilities as American citizens: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring),

That it is declared to be the sense of Congress that, at the earliest possible time, all of the Indian tribes and the individual members thereof located within the States of California, Florida, New York, and Texas, and all of the following named Indian tribes and individual members thereof, should be freed from Federal supervision and control and from all disabilities and limitations

specially applicable to Indians: The Flathead Tribe of Montana, the Klamath Tribe of Oregon, the Menominee Tribe of Wisconsin, the Potawatamie Tribe of Kansas and Nebraska, and those members of the Chippewa Tribe who are on the Turtle Mountain Reservation, North Dakota. It is further declared to be the sense of Congress that, upon the release of such tribes and individual members thereof from such disabilities and limitations, all offices of the Bureau of Indian Affairs in the States of California, Florida, New York, and Texas and all other offices of the Bureau of Indian Affairs whose primary purpose was to serve any Indian tribe or individual Indian freed from Federal supervision should be abolished. It is further declared to be the sense of Congress that the Secretary of the Interior should examine all existing legislation dealing with such Indians, and treaties between the Government of the United States and each such tribe, and report to Congress at the earliest practicable date, but not later than January 1, 1954, his recommendations for such legislation as, in his judgment, may be necessary to accomplish the purposes of this resolution.

SOURCE: U.S. Statutes at Large, 67:132.

Relocation of American Indians to Urban Areas, 1954

In the 1950s, during the termination era, the federal government sought to relocate American Indians to urban areas. In this report, Commissioner of Indian Affairs Glenn L. Emmons seeks to paint a positive picture of this policy.

During the 1954 fiscal year, 2,163 Indians were directly assisted to relocate under the Bureau's relocation program. This included 1,649 persons in over 400 family groups, and 514 unattached men and women. In addition, over 300 Indians left reservations without assistance to join relatives and friends who had been assisted to relocate. At their destination, Bureau Relocation Offices assisted this group also to adjust to the new community. The total number of relocations represented a substantial increase over relocations during the previous fiscal year.

Of the 2,163 Indians assisted to relocate, financial assistance, to cover all or part of the costs of transportation to the place of relocation and short-term temporary subsistence, [was] provided to 1,637 Indians, in addition to relocation services. This number included 1,329 persons in over 300 family groups, and 308 unattached men and women. An additional 526 Indians, including 320 in approximately 100 family groups and 206 unattached men and women, were assisted to relocate without financial assistance, but were provided relocation services only. These services included

counseling and guidance prior to relocation, and assistance in establishing residence and securing permanent employment in the new community.

In addition to the above-mentioned persons who were assisted to relocate, Bureau Relocation Offices assisted a number of Indian workers to secure employment which did not involve relocation, and cooperated with public employment offices and the Railroad Retirement Board in recruitment of Indians for temporary and seasonal work. However, in order to concentrate on providing relocation services, placement activities which do not involve relocation have been progressively decreased and responsibility for such placement activities has been largely left to established employment agencies.

In recognition of this emphasis, and following the recommendation of the survey team for the Bureau of Indian Affairs, the name of the former Branch of Placement and Relocation was changed during the year to the Branch of Relocation.

Approximately 54 percent of the Indians assisted to relocate came from 3 northern areas (Aberdeen, Billings, and Minneapolis), and 46 percent came from 4 southern areas (Anadarko, Gallup, Muskogee, and Phoenix). They went to 20 different States. The Los Angeles and Chicago metropolitan areas continued to be the chief centers of relocation.

On the reservations there was continued interest in relocation throughout the year. Relocation assistance funds were used up in almost every area, and at the end of the year there was a backlog of applications for relocation. Letters from relocated Indians to friends and relatives back on the reservation, describing their experiences

and new standards of living, served to stimulate interest as did a decrease in employment opportunities in the vicinity of some of the reservations and a marked decrease in railroad employment.

There was a slight tightening of the labor market during part of the year. However, through intensive efforts on the part of field relocation offices, it was still possible to assure permanent types of employment to almost all qualified workers who requested assistance in settling away from reservations. Field relocation offices followed a policy of securing employment for Indians in diversified industries and with a large number of employers. This policy proved of great benefit when industrial disputes developed in certain industries on the west coast.

To adjust to changes in the labor market which reduced employment in military installations and certain Government projects, the field relocation office formerly located in Salt Lake City was transferred to Oakland, Calif., effective June 1.

The Chicago Field Relocation Office, in recognition of the needs of the growing number of relocatees in that city and in accordance with the Bureau policy of encouraging the development of non-Bureau facilities for Indians, assisted in the establishment of an All-Tribes American Indian Center in Chicago. This center raised its own funds, and under the directorship of a board composed almost entirely of Indians, began providing opportunities for Indian relocatees to meet, engage in social and recreational programs, exchange experiences, and assist each other. Its operations were completely independent of the Bureau.

SOURCE: *Annual Report of the Secretary of the Interior* (Washington, D.C.: Government Printing Office, 1954), 242–243.

Declaration of Indian Purpose, June 1961

In 1961 American Indian leaders met at the University of Chicago to discuss the state of Native Americans. At the conclusion of the meeting, they issued a declaration that included proposals and recommendations on economic development, education, law, housing, health, welfare, and other issues.

WE BELIEVE in the inherent right of all people to retain spiritual and cultural values, and that the free exercise of these values is necessary to the normal development of any people. Indians exercised this inherent right to live their own lives for thousands of years before the white man came and took their lands. It is a more complex world in which Indians live today, but the Indian people who first settled the New World and built the great civilizations which only now are being dug out of the past, long ago demonstrated that they could master complexity.

WE BELIEVE that the history and development of America show that the Indian has been subjected to duress, undue influence, unwarranted pressures, and policies which have produced uncertainty, frustration, and despair. Only when the public understands these conditions and is moved to take action toward the formulation and adoption of sound and consistent policies

and programs will these destroying factors be removed and the Indian resume his normal growth and make his maximum contribution to modern society.

WE BELIEVE in the future of a greater America, an America which we were first to love, where life, liberty, and the pursuit of happiness will be a reality. In such a future, with Indians and all other Americans cooperating, a cultural climate will be created in which the Indian people will grow and develop as members of a free society.

LEGISLATIVE AND REGULATORY PROPOSALS

In order that basic objectives may be restated and that action to accomplish these objectives may be continuous and may be pursued in a spirit of public dedication, it is proposed that rec-

ommendations be adopted to strengthen the principles of the Indian Reorganization Act and to accomplish other purposes. These recommendations would be comparable in scope and purpose to the Indian Trade and Intercourse Act of June 30, 1834, the Act of the same date establishing the Bureau of Indian Affairs, and the Indian Reorganization Act of June 18, 1934, which recognized the inherent powers of Indian Tribes.

The recommendations we propose would redefine the responsibilities of the United States toward the Indian people in terms of a positive national obligation to modify or remove the conditions which produce the poverty and lack of social adjustment as these prevail as the outstanding attributes of Indian life today. Specifically, the recommendations would:

- (1) Abandon the so-called termination policy of the last administration by revoking House Concurrent Resolution 108 of the 83rd Congress.
- (2) Adopt as official policy the principle of broad educational process as the procedure best calculated to remove the disabilities which have prevented Indians from making full use of their resources.

It has been long recognized that one Commissioner cannot give the personal attention to all tribal matters which they deserve. He cannot meet all callers to his office, make necessary visits to the field, and give full attention to the review of tribal programs and supporting budget requests. In view of these conditions, we most urgently recommend that the present organization of the Bureau of Indian Affairs be reviewed and that certain principles be considered no matter what the organizational change might be.

The basic principle involves the desire on the part of Indians to participate in developing their own programs with help and guidance as needed and requested, from a local decentralized technical and administrative staff, preferably located conveniently to the people it serves. Also in recent years certain technical and professional people of Indian descent are becoming better qualified and available to work with and for their own people in determining their own programs and needs. The Indians as responsible individual citizens, as responsible tribal representatives, and as responsible Tribal Councils want to participate, want to contribute to their own personal and tribal improvements and want to cooperate with their Government on how best to solve the many problems in a business-like, efficient and economical manner as rapidly as possible.

It is, therefore, recommended that:

1. Area offices be abolished and their authority be given to the agency superintendents.
2. The position of reservation Superintendent be strengthened to permit broader exercise of responsibility and authority to act on significant and important matters of daily operations of Indian problems, preventing undue delays.
3. Position qualifications require the employment of Superintendents with courage and determination, among other qualities, to help with local problems and be willing to make with-

out further referral to higher levels, decisions commensurate with the delegated authorities.

4. The Superintendent be charged with the responsibilities of cooperating with the local tribal governing bodies in developing the Federal Program and Budget for that particular tribe or reservation.

CONCLUDING STATEMENT

To complete our Declaration, we point out that in the beginning the people of the New World, called Indians by accident of geography, were possessed of a continent and a way of life. In the course of many lifetimes, our people had adjusted to every climate and condition from the Arctic to the torrid zones. In their livelihood and family relationships, their ceremonial observances, they reflected the diversity of the physical world they occupied.

The conditions in which Indians live today reflect a world in which every basic aspect of life has been transformed. Even the physical world is no longer the controlling factor in determining where and under what conditions men may live. In region after region, Indian groups found their means of existence either totally destroyed or materially modified. Newly introduced diseases swept away or reduced regional populations. These changes were followed by major shifts in the internal life of tribe and family.

The time came when the Indian people were no longer the masters of their situation. Their life ways survived subject to the will of a dominant sovereign power. This is said, not in a spirit of complaint; we understand that in the lives of all nations of people, there are times of plenty and times of famine. But we do speak out in a plea for understanding.

When we go before the American people, as we do in this Declaration, and ask for material assistance in developing our resources and developing our opportunities, we pose a moral problem which cannot be left unanswered. For the problem we raise affects the standing which our nation sustains before world opinion.

Our situation cannot be relieved by appropriated funds alone, though it is equally obvious that without capital investment and funded services, solutions will be delayed. Nor will the passage of time lessen the complexities which beset a people moving toward new meaning and purpose.

The answers we seek are not commodities to be purchased, neither are they evolved automatically through the passing of time.

The effort to place social adjustment on a money-time interval scale, which has characterized Indian administration, has resulted in unwanted pressure and frustration.

When Indians speak of the continent they yielded, they are not referring only to the loss of some millions of acres in real estate. They have in mind that the land supported a universe of things they knew, valued, and loved.

With that continent gone, except for the few poor parcels they still retain, the basis of life is precariously held, but they mean to hold the scraps and parcels as earnestly as any small nation or ethnic group was ever determined to hold to identity and survival.

What we ask of America is not charity, not paternalism, even when benevolent. We ask only that the nature of our situation be recognized and made the basis of policy and action.

In short, the Indians ask for assistance, technical and financial, for the time needed, however long that may be, to regain in the America of the space age some measure of the adjustment they enjoyed as the original possessors of their native land.

source: *American Indian Chicago Conference, Declaration of Indian Purpose: The Voice of the American Indian* (Chicago: University of Chicago, 1961), 5–6, 19–20.

Native American Graves Protection and Repatriation Act, November 16, 1990

In the 1980s it came to light that federal agencies had possession of hundreds of thousands of Native American human remains. After a concerted effort by American Indian organizations and leaders, Congress enacted the Native American Graves Protection and Repatriation Act in 1990 (NAGPRA). The act had four basic provisions: federal agencies and private museums receiving federal monies must inventory their collections of American Indian funerary objects and human remains, and then the Indian nation of origin, if known, must be notified and, if it requests, the objects returned; native communities are the rightful owners of these objects; trafficking in these objects is illegal; and federal agencies and private museums must develop an itemized list of their Native American funerary and sacred objects so that any Native American nation proving possession can request and demand their return.

An Act to provide for the protection of Native American graves, and for other purposes.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Native American Graves Protection and Repatriation Act”.

SEC. 2. DEFINITIONS.

For purposes of this Act, the term—

(1) “burial site” means any natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which as a part of the death rite or ceremony of a culture, individual human remains are deposited.

(2) “cultural affiliation” means that there is a relationship of shared group identity which can be reasonably traced historically or prehistorically between a present day Indian tribe or Native Hawaiian organization and an identifiable earlier group.

(3) “cultural items” means human remains and—

(A) “associated funerary objects” which shall mean objects that, as a part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later, and both the human remains and associated funerary objects are presently in the possession or control of a Federal agency or museum, except that other items exclusively made for burial purposes or to contain human remains shall be considered as associated funerary objects.

(B) “unassociated funerary objects” which shall mean objects that, as a part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later, where the remains are not in the possession or control of the Federal agency or museum and the objects can be identified by a preponderance of the evidence as related to specific individuals or families or to known human remains or, by a preponderance of the evidence, as having

been removed from a specific burial site of an individual culturally affiliated with a particular Indian tribe,

(C) “sacred objects” which shall mean specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents, and

(D) “cultural patrimony” which shall mean an object having ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual Native American, and which, therefore, cannot be alienated, appropriated, or conveyed by any individual regardless of whether or not the individual is a member of the Indian tribe or Native Hawaiian organization and such object shall have been considered inalienable by such Native American group at the time the object was separated from such group.

(4) “Federal agency” means any department, agency, or instrumentality of the United States. Such term does not include the Smithsonian Institution.

(5) “Federal lands” means any land other than tribal lands which are controlled or owned by the United States, including lands selected by but not yet conveyed to Alaska Native Corporations and groups organized pursuant to the Alaska Native Claims Settlement Act of 1971.

(6) “Hui Malama I Na Kupuna O Hawai’i Nei” means the non-profit, Native Hawaiian organization incorporated under the laws of the State of Hawaii by that name on April 17, 1989, for the purpose of providing guidance and expertise in decisions dealing with Native Hawaiian cultural issues, particularly burial issues.

(7) “Indian tribe” means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native

Claims Settlement Act), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(8) “museum” means any institution or State or local government agency (including any institution of higher learning) that receives Federal funds and has possession of, or control over, Native American cultural items. Such term does not include the Smithsonian Institution or any other Federal agency.

(9) “Native American” means of, or relating to, a tribe, people, or culture that is indigenous to the United States.

(10) “Native Hawaiian” means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

(11) “Native Hawaiian organization” means any organization which—

(A) serves and represents the interests of Native Hawaiians,

(B) has as a primary and stated purpose the provision of services to Native Hawaiians, and

(C) has expertise in Native Hawaiian Affairs, and shall include the Office of Hawaiian Affairs and Hui Malama I Na Kupuna O Hawai'i Nei.

(12) “Office of Hawaiian Affairs” means the Office of Hawaiian Affairs established by the constitution of the State of Hawaii.

(13) “right of possession” means possession obtained with the voluntary consent of an individual or group that had authority of alienation. The original acquisition of a Native American unassociated funerary object, sacred object or object of cultural patrimony from an Indian tribe or Native Hawaiian organization with the voluntary consent of an individual or group with authority to alienate such object is deemed to give right of possession of that object, unless the phrase so defined would, as applied in section 7(c), result in a Fifth Amendment taking by the United States as determined by the United States Claims Court pursuant to 28 U.S.C. 1491 in which event the “right of possession” shall be as provided under otherwise applicable property law. The original acquisition of Native American human remains and associated funerary objects which were excavated, exhumed, or otherwise obtained with full knowledge and consent of the next of kin or the official governing body of the appropriate culturally affiliated Indian tribe or Native Hawaiian organization is deemed to give right of possession to those remains.

(14) “Secretary” means the Secretary of the Interior.

(15) “tribal land” means—

(A) all lands within the exterior boundaries of any Indian reservation;

(B) all dependent Indian communities;

(C) any lands administered for the benefit of Native Hawaiians pursuant to the Hawaiian Homes Commission Act, 1920, and section 4 of Public Law 86-3.

SEC. 3. OWNERSHIP.

(a) **NATIVE AMERICAN HUMAN REMAINS AND OBJECTS.**—The ownership or control of Native American cultural items which are excavated or discovered on Federal or tribal

lands after the date of enactment of this Act shall be (with priority given in the order listed)—

(1) in the case of Native American human remains and associated funerary objects, in the lineal descendants of the Native American; or

(2) in any case in which such lineal descendants cannot be ascertained, and in the case of unassociated funerary objects, sacred objects, and objects of cultural patrimony—

(A) in the Indian tribe or Native Hawaiian organization on whose tribal land such objects or remains were discovered;

Claims.

(B) in the Indian tribe or Native Hawaiian organization which has the closest cultural affiliation with such remains or objects and which, upon notice, states a claim for such remains or objects; or

(C) if the cultural affiliation of the objects cannot be reasonably ascertained and if the objects were discovered on Federal land that is recognized by a final judgment of the Indian Claims Commission or the United States Court of Claims as the aboriginal land of some Indian tribe—

(1) in the Indian tribe that is recognized as aboriginally occupying the area in which the objects were discovered, if upon notice, such tribe states a claim for such remains or objects, or

(2) if it can be shown by a preponderance of the evidence that a different tribe has a stronger cultural relationship with the remains or objects than the tribe or organization specified in paragraph (1), in the Indian tribe that has the strongest demonstrated relationship, if upon notice, such tribe states a claim for such remains or objects.

Regulations.

(b) **UNCLAIMED NATIVE AMERICAN HUMAN REMAINS AND OBJECTS.** Native American cultural items not claimed under subsection (a) shall be disposed of in accordance with regulations promulgated by the Secretary—in consultation with the review committee established under section 8—Native American groups, representatives of museums and the scientific community.

(c) **INTENTIONAL EXCAVATION AND REMOVAL OF NATIVE AMERICAN HUMAN REMAINS AND OBJECTS.**—The intentional removal from or excavation of Native American cultural items from Federal or tribal lands for purposes of discovery, study, or removal of such items is permitted only if—

(1) such items are excavated or removed pursuant to a permit issued under section 4 of the Archaeological Resources Protection Act of 1979 (93 Stat. 721; 16 U.S.C. 470aa et seq.) which shall be consistent with this Act;

(2) such items are excavated or removed after consultation with or, in the case of tribal lands, consent of the appropriate (if any) Indian tribe or Native Hawaiian organization;

(3) the ownership and right of control of the disposition of such items shall be as provided in subsections (a) and (b); and

(4) proof of consultation or consent under paragraph (2) is shown.

(d) **INADVERTENT DISCOVERY OF NATIVE AMERICAN REMAINS AND OBJECTS.**—(1) Any person who knows, or has reason to know, that such person has discovered Native American cultural items on Federal or tribal lands after the date of enactment of this Act shall notify, in writing, the Secretary of the department, or head of any other agency or instrumentality of the United States, having primary management authority with respect to Federal lands and the appropriate Indian tribe or Native Hawaiian organization with respect to tribal lands, if known or readily ascertainable, and, in the case of lands that have been selected by an Alaska Native Corporation or group organized pursuant to the Alaska Native Claims Settlement Act of 1971, the appropriate corporation or group. If the discovery occurred in connection with an activity, including (but not limited to) construction, mining, logging, and agriculture, the person shall cease the activity in the area of the discovery, make a reasonable effort to protect the items discovered before resuming such activity, and provide notice under this subsection. Following the notification under this subsection, and upon certification by the Secretary of the department or the head of any agency or instrumentality of the United States or the appropriate Indian tribe or Native Hawaiian organization that notification has been received, the activity may resume after 30 days of such certification. (2) The disposition of and control over any cultural items excavated or removed under this subsection shall be determined as provided for in this section. (3) If the Secretary of the Interior consents, the responsibilities (in whole or in part) under paragraphs (1) and (2) of the Secretary of any department (other than the Department of the Interior) or the head of any other agency or instrumentality may be delegated to the Secretary with respect to any land managed by such other Secretary or agency head.

(e) **RELINQUISHMENT.**—Nothing in this section shall prevent the governing body of an Indian tribe or Native Hawaiian organization from expressly relinquishing control over any Native American human remains, or title to or control over any funerary object, or sacred object.

SEC. 4. ILLEGAL TRAFFICKING.

(a) **ILLEGAL TRAFFICKING.**—Chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new section:

“1170. **Illegal Trafficking in Native American Human Remains and Cultural Items**

“(a) Whoever knowingly sells, purchases, uses for profit, or transports for sale or profit, the human remains of a Native American without the right of possession to those remains as provided in the Native American Graves Protection and Repatriation Act shall be fined in accordance with this title, or imprisoned not more than 12 months, or both, and in the case of a second or subsequent violation, be fined in accordance with this title, or imprisoned not more than 5 years, or both.

“(b) Whoever knowingly sells, purchases, uses for profit, or transports for sale or profit any Native American cultural items obtained in violation of the Native American Grave Protection and Repatriation Act shall be fined in accordance with this title,

imprisoned not more than one year, or both, and in the case of a second or subsequent violation, be fined in accordance with this title, imprisoned not more than 5 years, or both.”.

(b) **TABLE OF CONTENTS.**—The table of contents for chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new item:

“1170. **Illegal Trafficking in Native American Human Remains and Cultural Items.**”.

SEC. 5. INVENTORY FOR HUMAN REMAINS AND ASSOCIATED FUNERARY OBJECTS.

(a) **IN GENERAL.**—Each Federal agency and each museum which has possession or control over holdings or collections of Native American human remains and associated funerary objects shall compile an inventory of such items and, to the extent possible based on information possessed by such museum or Federal agency, identify the geographical and cultural affiliation of such item.

(b) **REQUIREMENTS.**—(1) The inventories and identifications required under subsection (a) shall be—

(A) completed in consultation with tribal government and Native Hawaiian organization officials and traditional religious leaders;

(B) completed by not later than the date that is 5 years after the date of enactment of this Act, and

(C) made available both during the time they are being conducted and afterward to a review committee established under section 8.

(2) Upon request by an Indian tribe or Native Hawaiian organization which receives or should have received notice, a museum or Federal agency shall supply additional available documentation to supplement the information required by subsection (a) of this section. The term “documentation” means a summary of existing museum or Federal agency records, including inventories or catalogues, relevant studies, or other pertinent data for the limited purpose of determining the geographical origin, cultural affiliation, and basic facts surrounding acquisition and accession of Native American human remains and associated funerary objects subject to this section. Such term does not mean, and this Act shall not be construed to be an authorization for, the initiation of new scientific studies of such remains and associated funerary objects or other means of acquiring or preserving additional scientific information from such remains and objects.

(c) **EXTENSION OF TIME FOR INVENTORY.**—Any museum which has made a good faith effort to carry out an inventory and identification under this section, but which has been unable to complete the process, may appeal to the Secretary for an extension of the time requirements set forth in subsection (b)(1)(B). The Secretary may extend such time requirements for any such museum upon a finding of good faith effort. An indication of good faith shall include the development of a plan to carry out the inventory and identification process.

(d) NOTIFICATION.—(1) If the cultural affiliation of any particular Native American human remains or associated funerary objects is determined pursuant to this section, the Federal agency or museum concerned shall, not later than 6 months after the completion of the inventory, notify the affected Indian tribes or Native Hawaiian organizations.

(2) The notice required by paragraph (1) shall include information—

(A) which identifies each Native American human remains or associated funerary objects and the circumstances surrounding its acquisition; (B) which lists the human remains or associated funerary objects that are clearly identifiable as to tribal origin; and

(C) which lists the Native American human remains and associated funerary objects that are not clearly identifiable as being culturally affiliated with that Indian tribe or Native Hawaiian organization, but which, given the totality of circumstances surrounding acquisition of the remains or objects, are determined by a reasonable belief to be remains or objects culturally affiliated with the Indian tribe or Native Hawaiian organization.

(3) A copy of each notice provided under paragraph (1) shall be sent to the Secretary who shall publish each notice in the Federal Register.

(e) INVENTORY.—For the purposes of this section, the term “inventory” means a simple itemized list that summarizes the information called for by this section.

SEC. 6. SUMMARY FOR UNASSOCIATED FUNERARY OBJECTS, SACRED OBJECTS, AND CULTURAL PATRIMONY.

(a) IN GENERAL.—Each Federal agency or museum which has museums in possession or control over holdings or collections of Native American unassociated funerary objects, sacred objects, or objects of cultural patrimony shall provide a written summary of such objects based upon available information held by such agency or museum. The summary shall describe the scope of the collection, kinds of objects included, reference to geographical location, means and period of acquisition and cultural affiliation, where readily ascertainable.

(b) REQUIREMENTS.—(1) The summary required under subsection (a) shall be—

(A) in lieu of an object-by-object inventory;

(B) followed by consultation with tribal government and Native Hawaiian organization officials and traditional religious leaders; and

(C) completed by not later than the date that is 3 years after the date of enactment of this Act.

(2) Upon request, Indian Tribes and Native Hawaiian organizations shall have access to records, catalogues, relevant studies or other pertinent data for the limited purposes of determining the geographic origin, cultural affiliation, and basic facts surrounding acquisition and accession of Native American objects subject to this section. Such information shall be provided in a reasonable manner to be agreed upon by all parties.

SEC. 7. REPATRIATION.

(a) REPATRIATION OF NATIVE AMERICAN HUMAN REMAINS AND OBJECTS POSSESSED OR CONTROLLED BY FEDERAL AGENCIES AND MUSEUMS.—(1) If, pursuant to section 5, the cultural affiliation of Native American human remains and associated funerary objects with a particular Indian tribe or Native Hawaiian organization is established, then the Federal agency or museum, upon the request of a known lineal descendant of the Native American or of the tribe or organization and pursuant to subsections (b) and (e) of this section, shall expeditiously return such remains and associated funerary objects.

(2) If, pursuant to section 6, the cultural affiliation with a particular Indian tribe or Native Hawaiian organization is shown with respect to unassociated funerary objects, sacred objects or objects of cultural patrimony, then the Federal agency or museum, upon the request of the Indian tribe or Native Hawaiian organization and pursuant to subsections (b), (c) and (e) of this section, shall expeditiously return such objects.

(3) The return of cultural items covered by this Act shall be in consultation with the requesting lineal descendant or tribe or organization to determine the place and manner of delivery of such items.

(4) Where cultural affiliation of Native American human remains and funerary objects has not been established in an inventory prepared pursuant to section 5, or the summary pursuant to section 6, or where Native American human remains and funerary objects are not included upon any such inventory, then, upon request and pursuant to subsections (b) and (e) and, in the case of unassociated funerary objects, subsection (c), such Native American human remains and funerary objects shall be expeditiously returned where the requesting Indian tribe or Native Hawaiian organization can show cultural affiliation by a preponderance of the evidence based upon geographical, kinship, biological, archaeological, anthropological, linguistic, folkloric, oral traditional, historical, or other relevant information or expert opinion.

(5) Upon request and pursuant to subsections (b), (c) and (e), sacred objects and objects of cultural patrimony shall be expeditiously returned where—

(A) the requesting party is the direct lineal descendant of an individual who owned the sacred object;

(B) the requesting Indian tribe or Native Hawaiian organization can show that the object was owned or controlled by the tribe or organization; or

(C) the requesting Indian tribe or Native Hawaiian organization can show that the sacred object was owned or controlled by a member thereof, provided that in the case where a sacred object was owned by a member thereof, there are no identifiable lineal descendants of said member or the lineal descendant, upon notice, have failed to make a claim for the object under this Act.

(b) SCIENTIFIC STUDY.—If the lineal descendant, Indian tribe, or Native Hawaiian organization requests the return of culturally affiliated Native American cultural items, the Federal agency or museum shall expeditiously return such items unless such items

are indispensable for completion of a specific scientific study, the outcome of which would be of major benefit to the United States. Such items shall be returned by no later than 90 days after the date on which the scientific study is completed.

(c) **STANDARD OF REPATRIATION.**—If a known lineal descendant or an Indian tribe or Native Hawaiian organization requests the return of Native American unassociated funerary objects, sacred objects or objects of cultural patrimony pursuant to this Act and presents evidence which, if standing alone before the introduction of evidence to the contrary, would support a finding that the Federal agency or museum did not have the right of possession, then such agency or museum shall return such objects unless it can overcome such inference and prove that it has a right of possession to the objects.

(d) **SHARING OF INFORMATION BY FEDERAL AGENCIES AND MUSEUMS.**—Any Federal agency or museum shall share what information it does possess regarding the object in question with the known lineal descendant, Indian tribe, or Native Hawaiian organization to assist in making a claim under this section.

(e) **COMPETING CLAIMS.**—Where there are multiple requests for repatriation of any cultural item and, after complying with the requirements of this Act, the Federal agency or museum cannot clearly determine which requesting party is the most appropriate claimant, the agency or museum may retain such item until the requesting parties agree upon its disposition or the dispute is otherwise resolved pursuant to the provisions of this Act or by a court of competent jurisdiction.

(f) **MUSEUM OBLIGATION.**—Any museum which repatriates any item in good faith pursuant to this Act shall not be liable for claims by an aggrieved party or for claims of breach of fiduciary duty, public trust, or violations of state law that are inconsistent with the provisions of this Act.

SEC. 8. REVIEW COMMITTEE.

(a) **ESTABLISHMENT.**—Within 120 days after the date of enactment of this Act, the Secretary shall establish a committee to monitor and review the implementation of the inventory and identification process and repatriation activities required under sections 5, 6 and 7.

(b) **MEMBERSHIP.**—(1) The Committee established under subsection (a) shall be composed of 7 members,

(A) 3 of whom shall be appointed by the Secretary from nominations submitted by Indian tribes, Native Hawaiian organizations, and traditional Native American religious leaders with at least 2 of such persons being traditional Indian religious leaders;

(B) 3 of whom shall be appointed by the Secretary from nominations submitted by national museum organizations and scientific organizations; and

(C) 1 who shall be appointed by the Secretary from a list of persons developed and consented to by all of the members appointed pursuant to subparagraphs (A) and (B).

(2) The Secretary may not appoint Federal officers or employees to the committee.

(3) In the event vacancies shall occur, such vacancies shall be filled by the Secretary in the same manner as the original appoint-

ment within 90 days of the occurrence of such vacancy.

(4) Members of the committee established under subsection (a) shall serve without pay, but shall be reimbursed at a rate equal to the daily rate for GS-18 of the General Schedule for each day (including travel time) for which the member is actually engaged in committee business. Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) **RESPONSIBILITIES.**—The committee established under subsection (a) shall be responsible for—

(1) designating one of the members of the committee as chairman;

(2) monitoring the inventory and identification process conducted under sections 5 and 6 to ensure a fair, objective consideration and assessment of all available relevant information and evidence;

(3) upon the request of any affected party, reviewing and making findings related to—

(A) the identity or cultural affiliation of cultural items, or

(B) the return of such items;

(4) facilitating the resolution of any disputes among Indian tribes, Native Hawaiian organizations, or lineal descendants and Federal agencies or museums relating to the return of such items including convening the parties to the dispute if deemed desirable;

(5) compiling an inventory of culturally unidentifiable human remains that are in the possession or control of each Federal agency and museum and recommending specific actions for developing a process for disposition of such remains;

(6) consulting with Indian tribes and Native Hawaiian organizations and museums on matters within the scope of the work of the committee affecting such tribes or organizations;

(7) consulting with the Secretary in the development of regulations to carry out this Act;

(8) performing such other related functions as the Secretary may assign to the committee; and

(9) making recommendations, if appropriate, regarding future care of cultural items which are to be repatriated.

(d) Any records and findings made by the review committee pursuant to this Act relating to the identity or cultural affiliation of any cultural items and the return of such items may be admissible in any action brought under section 15 of this Act.

(e) **RECOMMENDATIONS AND REPORT.**—The committee shall make the recommendations under paragraph (c)(5) in consultation with Indian tribes and Native Hawaiian organizations and appropriate scientific and museum groups.

(f) **ACCESS.**—The Secretary shall ensure that the committee established under subsection (a) and the members of the committee have reasonable access to Native American cultural items under review and to associated scientific and historical documents.

Regulations.

(g) **DUTIES OF THE SECRETARY.**—The Secretary shall—

(1) establish such rules and regulations for the committee as may be necessary, and

(2) provide reasonable administrative and staff support necessary for the deliberations of the committee.

(h) **ANNUAL REPORT.**—The committee established under subsection (a) shall submit an annual report to the Congress on the progress made, and any barriers encountered, in implementing this section during the previous year.

(i) **TERMINATION.**—The committee established under subsection (a) shall terminate at the end of the 120-day period beginning on the day the Secretary certifies, in a report submitted to Congress, that the work of the committee has been completed.

SEC. 9. PENALTY. Museums.

(a) **PENALTY.**—Any museum that fails to comply with the 25 U.S.C. 3007 requirements of this Act may be assessed a civil penalty by the Secretary of the Interior pursuant to procedures established by the Secretary through regulation. A penalty assessed under this subsection shall be determined on the record after opportunity for an agency hearing. Each violation under this subsection shall be a separate offense.

(b) **AMOUNT OF PENALTY.**—The amount of a penalty assessed under subsection (a) shall be determined under regulations promulgated pursuant to this Act, taking into account, in addition to other factors—

(1) the archaeological, historical, or commercial value of the item involved;

(2) the damages suffered, both economic and noneconomic, by an aggrieved party, and

(3) the number of violations that have occurred.

(c) **ACTIONS TO RECOVER PENALTIES.**—If any museum fails to pay costs, an assessment of a civil penalty pursuant to a final order of the Secretary that has been issued under subsection (a) and not appealed or after a final judgment has been rendered on appeal of such order, the Attorney General may institute a civil action in an appropriate district court of the United States to collect the penalty. In such action, the validity and amount of such penalty shall not be subject to review.

(d) **SUBPOENAS.**—In hearings held pursuant to subsection (a), subpoenas may be issued for the attendance and testimony of witnesses and the production of relevant papers, books, and documents. Witnesses so summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States.

SEC. 10. GRANTS.

(a) **INDIAN TRIBES AND NATIVE HAWAIIAN ORGANIZATIONS.**—The Secretary is authorized to make grants to Indian tribes and Native Hawaiian organizations for the purpose of assisting such tribes and organizations in the repatriation of Native American cultural items.

(b) **MUSEUMS.**—The Secretary is authorized to make grants to museums for the purpose of assisting the museums in conducting the inventories and identification required under sections 5 and 6.

SEC. 11. SAVINGS PROVISIONS.

Nothing in this Act shall be construed to—

(1) limit the authority of any Federal agency or museum to—

(A) return or repatriate Native American cultural items to Indian tribes, Native Hawaiian organizations, or individuals, and

(B) enter into any other agreement with the consent of the culturally affiliated tribe or organization as to the disposition of, or control over, items covered by this Act;

(2) delay actions on repatriation requests that are pending on the date of enactment of this Act;

(3) deny or otherwise affect access to any court;

(4) limit any procedural or substantive right which may otherwise be secured to individuals or Indian tribes or Native Hawaiian organizations; or

(5) limit the application of any State or Federal law pertaining to theft or stolen property.

SEC. 12. SPECIAL RELATIONSHIP BETWEEN FEDERAL GOVERNMENT AND INDIAN TRIBES.

This Act reflects the unique relationship between the Federal Government and Indian tribes and Native Hawaiian organizations and should not be construed to establish a precedent with respect to any other individual, organization or foreign government.

SEC. 13. REGULATIONS.

The Secretary shall promulgate regulations to carry out this Act within 12 months of enactment.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

SEC. 15. ENFORCEMENT.

The United States district courts shall have jurisdiction over any action brought by any person alleging a violation of this Act and shall have the authority to issue such orders as may be necessary to enforce the provisions of this Act.

Approved November 16, 1990.

SOURCE: *U.S. Statutes at Large*, 104:3048.

Bureau of Indian Affairs Apology, September 8, 2000

In September 2000 Assistant Secretary for Indian Affairs Kevin Gover (Pawnee) apologized on behalf of the Bureau of Indian Affairs for the systematic genocide and ethnocide practiced by the bureau since its inception in 1824.

In March 1824, President James Monroe established the Office of Indian Affairs in the Department of War. Its mission was to conduct the nation's business with regard to Indian affairs. We have come together today to mark the first 175 years of the institution now known as the Bureau of Indian Affairs.

It is appropriate that we do so in the first year of a new century and a new millennium, a time when our leaders are reflecting on what lies ahead and preparing for those challenges. Before looking ahead, though, this institution must first look back and reflect on what it has wrought and by doing so, come to know that this is no occasion for celebration; rather it is time for reflection and contemplation, a time for sorrowful truths to be spoken, a time for contrition.

We must first reconcile ourselves to the fact that the works of this agency have at various times profoundly harmed the communities it was meant to serve. From the very beginning, the Office of Indian Affairs was an instrument by which the United States enforced its ambition against the Indian nations and Indian people who stood in its path. And so, the first mission of this institution was to execute the removal of the southeastern tribal nations. By threat, deceit, and force, these great tribal nations were made to march 1,000 miles to the west, leaving thousands of their old, their young and their infirm in hasty graves along the Trail of Tears.

As the nation looked to the West for more land, this agency participated in the ethnic cleansing that befell the western tribes. War necessarily begets tragedy; the war for the West was no exception. Yet in these more enlightened times, it must be acknowledged that the deliberate spread of disease, the decimation of the mighty bison herds, the use of the poison alcohol to destroy mind and body and the cowardly killing of women and children made for tragedy on a scale so ghastly that it cannot be dismissed as merely the inevitable consequence of the clash of competing ways of life. This agency and the good people in it failed in the mission to prevent the devastation. And so great nations of patriot warriors fell. We will never push aside the memory of unnecessary and violent death at places such as Sand Creek, the banks of the Washita River and Wounded Knee.

Nor did the consequences of war have to include the futile and destructive efforts to annihilate Indian cultures. After the devastation of tribal economies and the deliberate creation of tribal dependence on the services provided by this agency, this agency set out to destroy all things Indian.

This agency forbade the speaking of Indian languages, prohibited the conduct of traditional religious activities, outlawed traditional government and made Indian people ashamed of who they were. Worst of all, the Bureau of Indian Affairs committed these

acts against the children entrusted to its boarding schools, brutalizing them emotionally, psychologically, physically and spiritually. Even in this era of self-determination, when the Bureau of Indian Affairs is at long last serving as an advocate for Indian people in an atmosphere of mutual respect, the legacy of these misdeeds haunts us. The trauma of shame, fear and anger has passed from one generation to the next, and manifests itself in the rampant alcoholism, drug abuse, and domestic violence that plague Indian country. Many of our people live lives of unrelenting tragedy as Indian families suffer the ruin of lives by alcoholism, suicides made of shame and despair and violent death at the hands of one another. So many of the maladies suffered today in Indian country result from the failures of this agency. Poverty, ignorance and disease have been the product of this agency's work.

And so today I stand before you as the leader of an institution that in the past has committed acts so terrible that they infect, diminish and destroy the lives of Indian people decades later, generations later. These things occurred despite the efforts of many good people with good hearts who sought to prevent them. These wrongs must be acknowledged if the healing is to begin.

I do not speak today for the United States. That is the province of the nation's elected leaders and I would not presume to speak on their behalf. I am empowered, however, to speak on behalf of this agency, the Bureau of Indian Affairs and I am quite certain that the words that follow reflect the hearts of its 10,000 employees.

Let us begin by expressing our profound sorrow for what this agency has done in the past. Just like you, when we think of these misdeeds and their tragic consequences, our hearts break and our grief is as pure and complete as yours. We desperately wish that we could change this history, but of course we cannot. On behalf of the Bureau of Indian Affairs, I extend this formal apology to Indian people for the historical conduct of this agency.

And while the BIA employees of today did not commit these wrongs, we acknowledge that the institution we serve did. We accept this inheritance, this legacy of racism and inhumanity. And by accepting this legacy, we accept also the moral responsibility of putting things right.

We therefore begin this important work anew and make a new commitment to the people and communities that we serve, a commitment born of the dedication we share with you to the cause of renewed hope and prosperity for Indian country. Never again will this agency stand silent when hate and violence are committed against Indians. Never again will we allow policy to proceed from the assumption that Indians possess less human genius than the other races. Never again will we be complicit in the theft of Indian

property. Never again will we appoint false leaders who serve purposes other than those of the tribes. Never again will we allow unflattering and stereotypical images of Indian people to deface the halls of government or lead the American people to shallow and ignorant beliefs about Indians. Never again will we attack your religions, your languages, your rituals, or any of your tribal ways. Never again will we seize your children, nor teach them to be ashamed of who they are. Never again.

We cannot yet ask your forgiveness, not while the burdens of this agency's history weigh so heavily on tribal communities. What we do ask is that, together, we allow the healing to begin: As you return to your homes and as you talk with your people, please tell them that time of dying is at its end. Tell your children that the time of shame and fear is over. Tell your young men and women to

replace their anger with hope and love for their people. Together, we must wipe the tears of seven generations.

Together, we must allow our broken hearts to mend. Together, we will face a challenging world with confidence and trust. Together, let us resolve that when our future leaders gather to discuss the history of this institution, it will be time to celebrate the rebirth of joy, freedom and progress for the Indian Nations. The Bureau of Indian Affairs was born in 1824 in a time of war on Indian people. May it live in the year 2000 and beyond as an instrument of their prosperity.

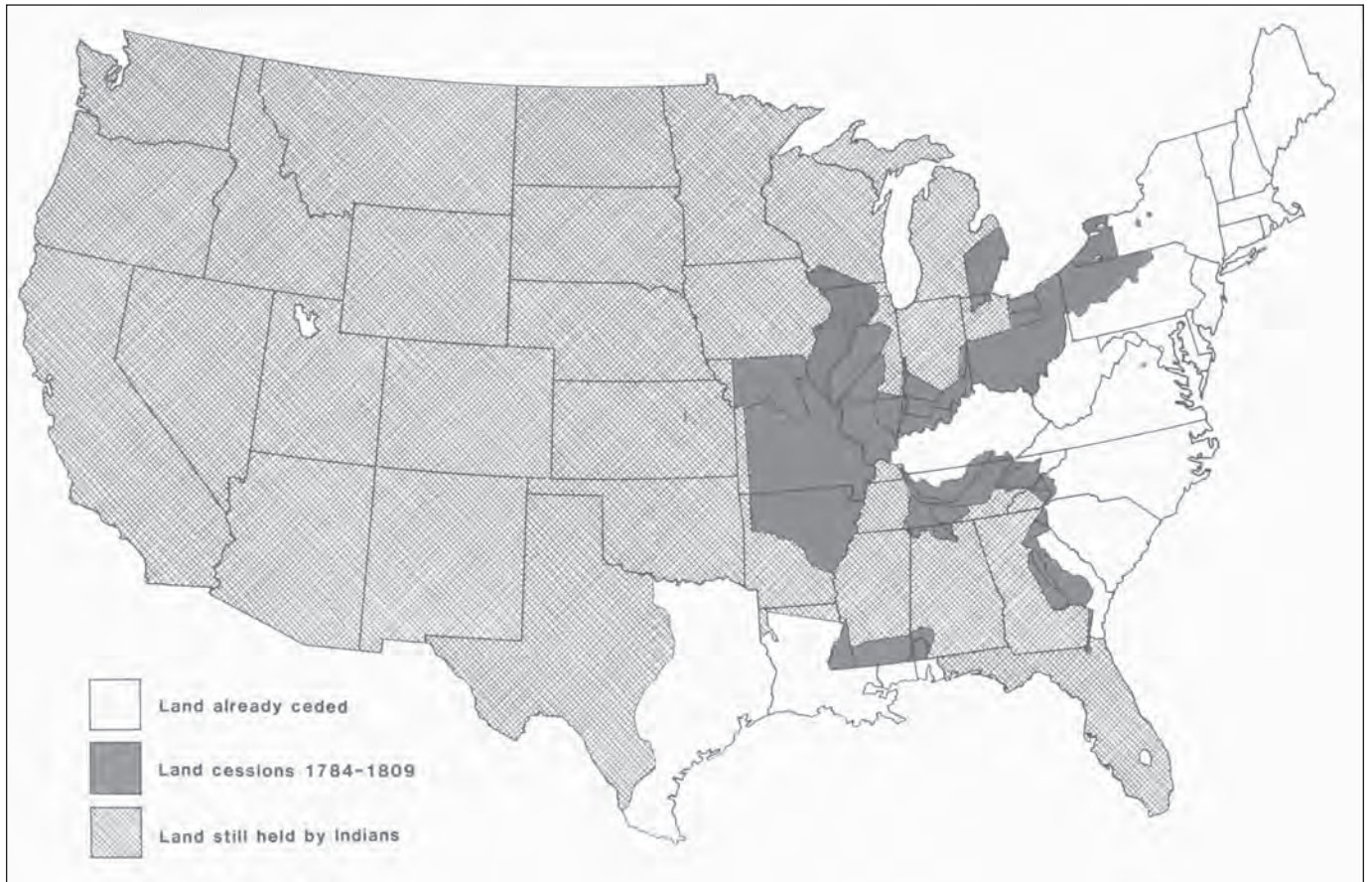
SOURCE: Bureau of Indian Affairs, press release on the 175th anniversary of the establishment of the Bureau of Indian Affairs, September 8, 2000, available at <http://www.doi.gov/bia/as-ia/175gover.htm>.

APPENDIX B

Maps and Statistics

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Indian Land Cessions, 1784-1809



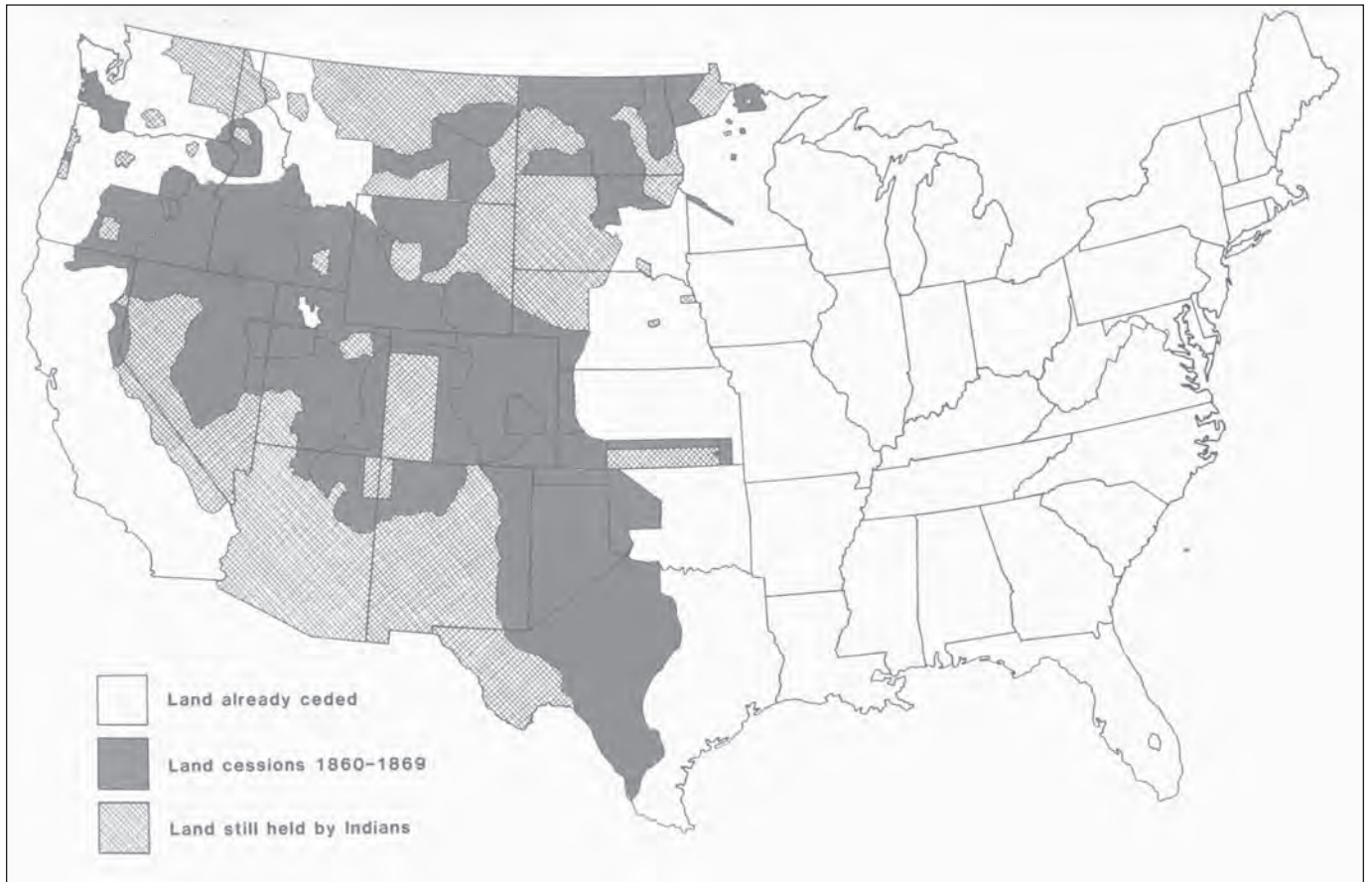
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Indian Land Cessions, 1820–1829



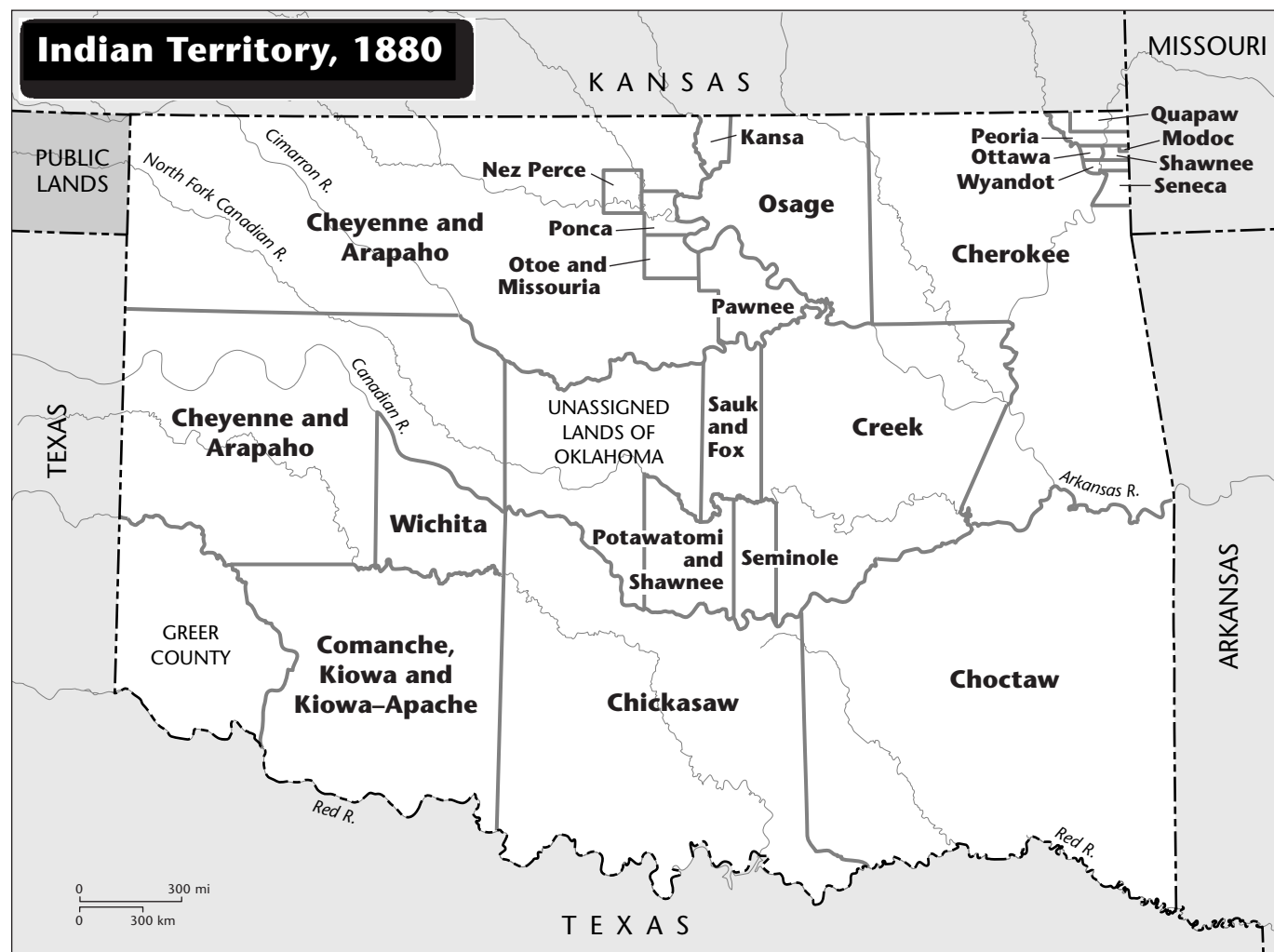
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Indian Land Cessions, 1860–1869

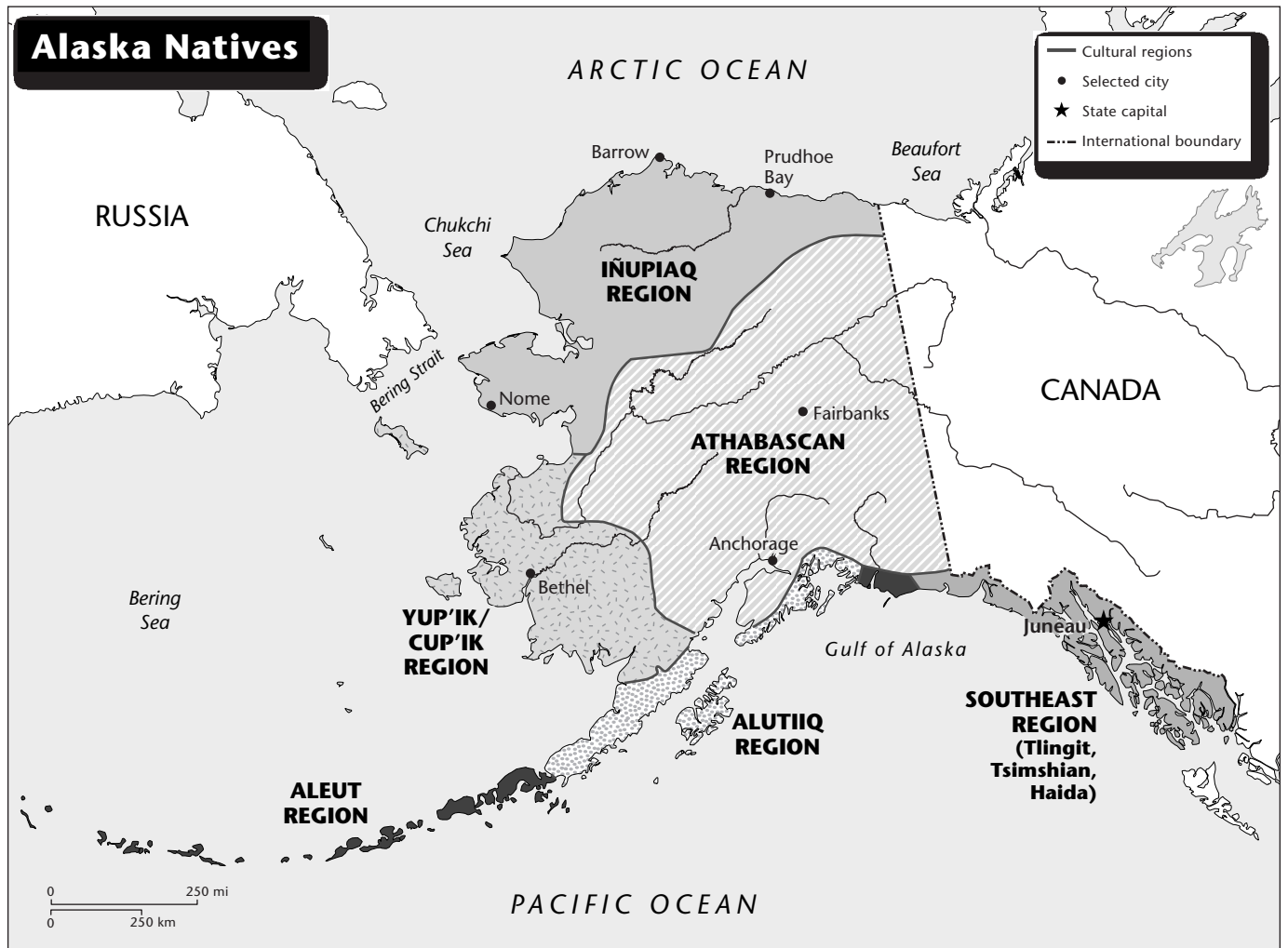


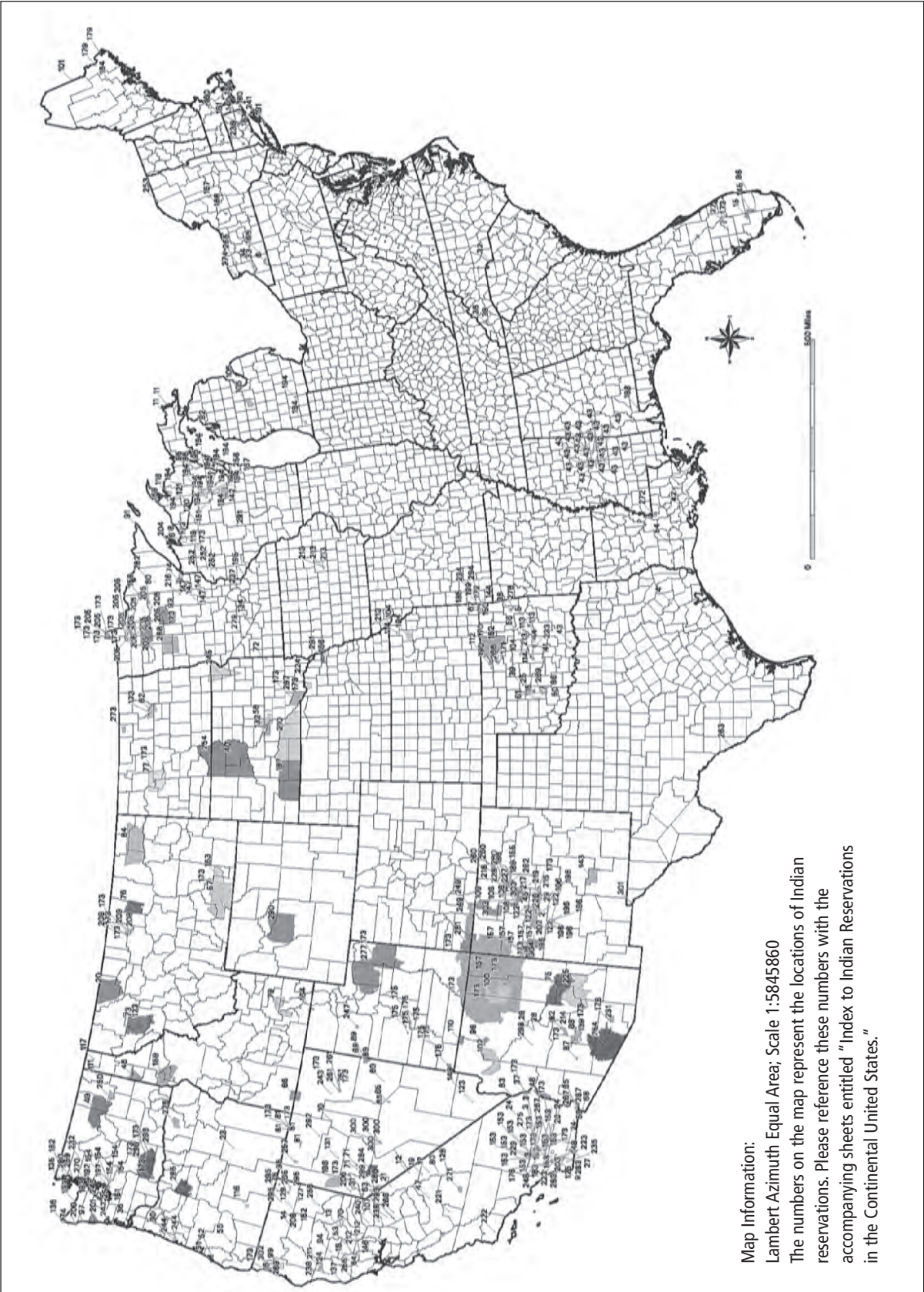
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Indian Territory, 1880



Alaska Natives





Index to Indian Reservations in the Continental United States

There are 562 federally recognized Indian tribes. Of these, 337 are in the continental United States. They do not all have reservations. Trust lands are not included in this map. Spellings may differ from those in the text.

- | | | | |
|-----------------------------|----------------------------|----------------------------|-----------------------------------|
| 1 Absentee Shawnee* | 48 Colorado River | 95 Hannahville | 143 Mescalero |
| 2 Acoma | 49 Colville | 96 Havasupai | 144 Miami* |
| 3 Agua Caliente | 50 Comanche* | 97 Hoh | 145 Miccosukee |
| 4 Alabama-Coushatta | 51 Coos, Lower Umpqua, and | 98 Hollywood | 146 Middletown |
| 5 Alabama-Quassarte Creeks* | Siuslaw | 99 Hoopa Valley | 147 Mille Lacs |
| 6 Allegany | 52 Coquille* | 100 Hopi | 148 Mission |
| 7 Apache* | 53 Cortina | 101 Houlton Maliseets | 149 Moapa |
| 8 Bad River | 54 Coushatta | 102 Hualapai | 150 Modoc* |
| 9 Barona Ranch | 55 Cow Creek | 103 Inaja | 151 Mole Lake |
| 10 Battle Mountain | 56 Creek* | 104 Iowa* | 152 Montgomery Creek |
| 11 Bay Mills | 57 Crow | 105 Isabella | 153 Morongo |
| 12 Benton Paiute | 58 Crow Creek | 106 Isleta | 154 Muckleshoot |
| 13 Berry Creek | 59 Cuyapaipe | 107 Jackson | 155 Nambe |
| 14 Big Bend | 60 Deer Creek | 108 Jemez | 156 Narragansett |
| 15 Big Cypress | 61 Delaware* | 109 Jicarilla | 157 Navajo |
| 16 Big Lagoon | 62 Devils Lake | 110 Kaibab | 158 Nett Lake |
| 17 Big Pine | 63 Dresslerville Colony | 111 Kalispel | 159 Nez Perce |
| 18 Big Valley | 64 Dry Creek | 112 Kaw* | 160 Nipmoc- |
| 19 Bishop | 65 Duckwater | 113 Kialegee Creek* | Hassanamisco [†] |
| 20 Blackfeet | 66 Duck Valley | 114 Kickapoo* | 161 Nisqually |
| 21 Bridgeport | 67 Eastern Shawnee* | 115 Kiowa* | 162 Nooksack |
| 22 Brighton | 68 East Cocopah | 116 Klamath* | 163 Northern Cheyenne |
| 23 Burns Paiute Colony | 69 Ely Colony | 117 Kootenai | 164 Northwestern Shoshone |
| 24 Cabezón | 70 Enterprise | 118 L'Anse | 165 Oil Springs |
| 25 Caddo* | 71 Fallon | 119 Lac Courte Oreilles | 166 Omaha |
| 26 Cahuilla | 72 Flandreau Indian School | 120 Lac du Flambeau | 167 Oneida ^c |
| 27 Campo | 73 Flathead | 121 Lac Vieux Desert | 168 Onondaga |
| 28 Camp Verde | 74 Fond du Lac | 122 Laguna | 169 Ontonagon |
| 29 Canoncito | 75 Fort Apache | 123 Las Vegas | 170 Osage |
| 30 Capitan Grande | 76 Fort Belknap | 124 Laytonville | 171 Otoe-Missouri* |
| 31 Carson | 77 Fort Berthold | 125 La Jolla | 172 Ottawa* |
| 32 Catawba | 78 Fort Bidwell | 126 La Posta | 173 Out |
| 33 Cattaraugus | 79 Fort Hall | 127 Likely | 174 Ozette |
| 34 Cayuga* | 80 Fort Independence | 128 Lone Pine | 175 Paiute |
| 35 Cedarville | 81 Fort McDermitt | 129 Lookout | 176 Pala |
| 36 Chehalis | 82 Fort McDowell | 130 Los Coyotes | 177 Pamunkey [†] |
| 37 Chemehuevi | 83 Fort Mohave | 131 Lovelock Colony | 178 Pascua Yaqui |
| 38 Cherokee ^a | 84 Fort Peck | 132 Lower Brule | 179 Passamaquoddy |
| 39 Cheyenne-Arapahoe* | 85 Fort Yuma | 133 Lower Elwah | 180 Paucatauk Pequot [†] |
| 40 Cheyenne River | 86 Fort Sill Apache* | 134 Lower Sioux | 181 Paugusett [†] |
| 41 Chickasaw* | 87 Gila Bend | 135 Lummi | 182 Pawnee* |
| 42 Chitimacha | 88 Gila River | 136 Makah | 183 Pechanga |
| 43 Choctaw ^b | 89 Goshute | 137 Manchester | 184 Penobscot |
| 44 Citizen Band of | 90 Grande Ronde | 138 Manzanita | 185 Peoria* |
| Potawatomi* | 91 Grand Portage | 139 Maricopa | 186 Picuris |
| 45 Cochiti | 92 Grand Traverse | 140 Mashantucket Pequot | 187 Pine Ridge |
| 46 Coeur d'Alene | 93 Greater Leech Lake | 141 Mattaponi [†] | 188 Poarch Creek |
| 47 Cold Springs | 94 Grindstone | 142 Menominee | 189 Pojaoque |

190 Ponca*	220 Santa Rosa	250 Spokane	279 Upper Sioux
191 Poosepatuck†	221 Santa Rosa (North)	251 Squaxon Island	280 Upper Skagit
192 Port Gamble	222 Santa Ynez	252 St. Croix	281 Ute Mountain
193 Port Madison	223 Santa Ysabel	253 St. Regis	282 Vermilion Lake
194 Potawatomi ^d	224 Santee	254 Standing Rock	283 Viejas
195 Prairie Isle	225 San Carlos	255 Stewarts Point	284 Walker River
196 Puertocito	226 San Felipe	256 Stockbridge Munsee	285 Warm Springs
197 Puyallup	227 San Ildefonso	257 Summit Lake	286 Washoe
198 Pyramid Lake	228 San Juan	258 Susanville	287 West Cocopah
199 Quapaw*	229 San Manual	259 Swinomish	288 White Earth
200 Quillayute	230 San Pasqual	260 Taos	289 Wichita*
201 Quinault	231 San Xavier	261 Te-Moak	290 Wind River
202 Ramah	232 Sauk Suiattle	262 Tesuque	291 Winnebago ^f
203 Ramona	233 Seminole*	263 Texas Kickapoo	292 Winnemucca
204 Red Cliff	234 Seneca-Cayuga*	264 Tohono O'odham	293 Woodford Indian Community
205 Red Lake	235 Sequan	265 Tonawanda	294 Wyandotte*
206 Reno-Sparks	236 Shaghticoke†	266 Tonikawa*	295 XL Ranch
207 Rincon	237 Shakopee	267 Torres Martinez	296 Yakama
208 Roaring Creek	238 Sheep Ranch	268 Toulumne	297 Yankton
209 Rocky Boys	239 Sherwood Valley	269 Trinidad	298 Yavapai
210 Rosebud	240 Shingle Spring	270 Tulalip	299 Yerington
211 Round Valley	241 Shinnecock†	271 Tule River	300 Yomba
212 Rumsey	242 Shoalwater	272 Tunica-Biloxi	301 Ysleta Del Sur
213 Sac and Fox ^e	243 Shoshone	273 Turtle Mountains	302 Yurok
214 Salt River	244 Siletz	274 Tuscarora	303 Zia
215 Sandia	245 Sisseton	275 Twenty-nine Palms	304 Zuni
216 Sandy Lake	246 Skokomish	276 Umatilla	
217 Santa Ana	247 Skull Valley	277 Unitah and Ouray	
218 Santa Clara	248 Soboba	278 United Keetoowah Band of Cherokee*	
219 Santa Domingo	249 Southern Ute		

Notes

* Do not have federal reservations. The tribal office is in the location indicated.

† Do not have federal reservations. The state reservation is in the location indicated.

^a 38 Cherokee: The eastern band of Cherokee in North Carolina has a federal reservation; the Cherokee nation in Oklahoma does not have a federal reservation.

^b 43 Choctaw: The Mississippi Choctaw in Mississippi have a federal reservation; the Choctaw nation in Oklahoma does not have a federal reservation.

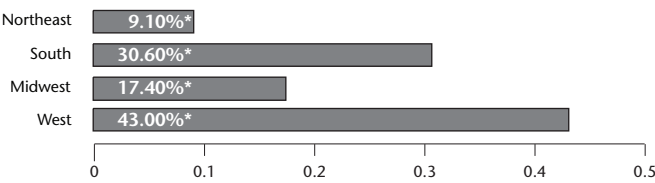
^c 167 Oneida: The Oneida nation of New York has a federal reservation; the Oneida tribe in Wisconsin also has a federal reservation.

^d 194 Potawatomi: Two Potawatomi groups in Wisconsin have state reservations; the rest have federal reservations.

^e 213 Sac and Fox: The Sac and Fox tribe of the Mississippi in Iowa have a federal reservation; the Sac and Fox nation in Kansas and Nebraska has a federal reservation; and the Sac and Fox nation of Oklahoma does not have a federal reservation.

^f 291 Winnebago: The Winnebago tribe of Nebraska has a federal reservation; the Ho-Chunk nation, formerly known as the Wisconsin Winnebago, has a federal reservation in Wisconsin

Percent Distribution of the American Indian and Alaska Native Population by Region, 2000



* American Indian and Alaska Native alone or in combination.

Source: U.S. Census Bureau, Census 2000.

American Indian and Alaska Native Tribes in the United States, 2000

This table shows data for American Indian and Alaska Native tribes alone and alone or in combination for the United States.

Those respondents who reported as American Indian or Alaska Native only and one tribe are shown in column 1. Respondents who reported two or more American Indian or Alaska Native tribes, but no other race, are shown in column 2. Those respondents who reported as American Indian or Alaska Native and at least one other race and one tribe are shown in column 3. Respondents who reported as American Indian or Alaska Native and at least one other race and two or more tribes are shown in column 4. Those respondents who reported as American Indian or Alaska Native in any combination of race(s) or tribe(s) are shown in column 5; this is the sum of the numbers in columns 1 through 4. For an explanation of the alone and alone or in combination concepts used in this table see "The American Indian and Alaska Native Population: 2000," U.S. Census Bureau, Census 2000 Brief, C2KBR/01-15 at www.census.gov/population/www/cen2000/briefs.html.

Table 1. American Indian and Alaska Native Alone and Alone or in Combination Population by Tribe¹ for the United States, 2000

Note: Respondents who identified themselves as American Indian or Alaska Native were asked to report their enrolled or principal tribe. Therefore, tribal data in this data product reflect the written tribal entries reported on the questionnaire. Some of the entries (for example, Iroquois, Sioux, Colorado River, and Flathead) represent nations or reservations. The information on tribe is based on self-identification and includes federally- or state-recognized tribes, as well as bands and clans.

American Indian and Alaska Native Tribes	American Indian and Alaska Native alone		American Indian and Alaska Native in combination with one or more races		American Indian and Alaska Native tribe alone or in any combination
	One tribe reported	Two or more tribes reported	One tribe reported	Two or more tribes reported	
	(1)	(2)	(3)	(4)	(5)
Total tribes tallied ¹	2,409,578	133,259	1,581,122	124,914	4,248,873
Total persons	2,416,410	59,546	1,582,860	60,485	4,119,301
Abenaki Nation of Missiquoi	2,385	137	2,686	264	5,472
Algonquian	1,107	191	2,314	502	4,114
Apache	57,060	7,917	24,947	6,909	96,833
Arapaho	7,000	443	1,534	281	9,258
Arikara	775	254	245	42	1,316
Assiniboine	3,946	188	630	74	4,838
Assiniboine Sioux	1,740	25	370	10	2,145
Bannock	38	5	42	4	89
Blackfeet	27,104	4,358	41,389	12,899	85,750
Brotherton	622	19	646	26	1,313
Burt Lake Band	60	-	19	1	80
Caddo	2,675	326	1,191	170	4,362
Cahuilla	2,142	297	662	87	3,188
California Tribes	900	400	392	129	1,821
Canadian and Latin American	108,802	2,236	79,499	2,233	192,770
Catawba Indian Nation	1,725	88	728	133	2,674
Cayuse	60	29	34	3	126
Chehalis	536	20	98	7	661
Chemakuan	593	16	138	2	749
Chemehuevi	696	62	229	13	1,000

Table 1. American Indian and Alaska Native Alone and Alone or in Combination Population by Tribe¹ for the United States, 2000 (*continued*)

American Indian and Alaska Native Tribes	American Indian and Alaska Native alone		American Indian and Alaska Native in combination with one or more races		American Indian and Alaska Native tribe alone or in any combination
	One tribe reported	Two or more tribes reported	One tribe reported	Two or more tribes reported	
	(1)	(2)	(3)	(4)	(5)
Cherokee	281,069	18,793	390,902	38,769	729,533
Cherokee Shawnee	587	12	561	22	1,182
Cheyenne	11,191	1,365	4,655	993	18,204
Cheyenne-Arapaho	3,634	100	746	30	4,510
Chickahominy	1,007	23	303	25	1,358
Chickasaw	20,887	3,014	12,025	2,425	38,351
Chinook	639	121	755	174	1,689
Chippewa	105,907	2,730	38,635	2,397	149,669
Rocky Boy's Chippewa Cree	5,531	180	1,294	99	7,104
Chitimacha Tribe of Louisiana	1,001	409	410	58	1,878
Choctaw	87,349	9,552	50,123	11,750	158,774
Choctaw-Apache Community of Ebarb	364	6	96	6	472
Chumash	4,032	394	2,277	230	6,933
Clear Lake	4	-	8	-	12
Coeur D'Alene	1,392	19	242	5	1,658
Coharie	1,259	60	157	20	1,496
Colorado River Indian	1,719	45	153	10	1,927
Colville	7,833	193	1,308	59	9,393
Comanche	10,120	1,568	6,120	1,568	19,376
Coos, Lower Umpqua, and Siuslaw	63	2	16	-	81
Coos	211	27	94	42	374
Coquille	407	1	163	5	576
Costanoan	1,484	236	994	123	2,837
Coushatta	1,466	40	500	56	2,062
Cowlitz	1,182	42	660	39	1,923
Cree	2,488	724	3,577	945	7,734
Creek	40,223	5,495	21,652	3,940	71,310
Croatan	77	18	281	19	395
Crow	9,117	574	2,812	891	13,394
Cupeno	417	60	86	5	568
Delaware	8,304	602	6,866	569	16,341
Diegueno	2,660	111	717	29	3,517
Eastern Tribes	4,969	539	2,689	347	8,544
Esselen	117	19	64	15	215
Fort Belknap	141	191	9	1	342
Three Affiliated Tribes of North Dakota (Fort Berthold)	3,508	25	269	5	3,807
Fort McDowell Mohave-Apache Community	128	6	16	4	154
Shoshone-Bannock Tribes of the Fort Hall Reservation	4,587	40	503	5	5,135
Gabrieleno	1,168	106	467	34	1,775
Grande Ronde	2,130	36	665	21	2,852
Gros Ventres	2,881	242	488	71	3,682
Haliwa-Saponi	3,452	48	739	66	4,305
Hidatsa	624	489	135	87	1,335
Hoopa	2,499	114	432	48	3,093
Hoopa Extension	-	4	1	2	7
United Houma Nation	6,798	79	1,794	42	8,713
Iowa	1,451	76	688	43	2,258
Indians of Person Count	352	-	41	-	393
Iroquois	45,212	2,318	29,763	3,529	80,822
Juaneno (Acjachemem)	2,373	71	850	36	3,330
Kalispel Indian Community	306	30	42	2	380
Karuk Tribe of California	3,164	272	1,329	136	4,901
Kaw	1,150	149	563	130	1,992

Table 1. American Indian and Alaska Native Alone and Alone or in Combination Population by Tribe¹ for the United States, 2000 (*continued*)

American Indian and Alaska Native Tribes	American Indian and Alaska Native alone		American Indian and Alaska Native in combination with one or more races		American Indian and Alaska Native tribe alone
	One tribe reported	Two or more tribes reported	One tribe reported	Two or more tribes reported	or in any combination
	(1)	(2)	(3)	(4)	(5)
Kickapoo	3,525	307	1,092	192	5,116
Kiowa	8,559	1,130	2,119	434	12,242
S'Klallam	1,779	37	445	17	2,278
Klamath	2,632	490	715	206	4,043
Konkow	205	330	102	133	770
Kootenai	618	21	163	13	815
Lassik	3	-	3	-	6
Long Island	655	40	469	47	1,211
Luiseno	4,317	203	999	46	5,565
Lumbee	51,913	642	4,934	379	57,868
Lummi	3,073	104	592	43	3,812
Maidu	2,368	621	904	202	4,095
Makah	2,005	58	413	12	2,488
Maliseet	905	45	345	29	1,324
Mandan	369	456	318	160	1,303
Mattaponi	512	15	272	13	812
Menominee	7,883	258	1,551	148	9,840
Miami	3,811	114	2,334	158	6,417
Miccosukee	103	18	57	11	189
Micmac	2,913	254	3,199	356	6,722
Mission Indians	1,008	185	481	62	1,736
Miwok	110	11	54	2	177
Me-Wuk	2,881	526	1,718	247	5,372
Modoc	478	438	280	242	1,438
Mohegan	1,180	93	1,000	155	2,428
Monocan	707	39	302	48	1,096
Mono	1,744	424	659	93	2,920
Nanticoke	860	44	642	55	1,601
Nanticoke Lenne-Lenape	555	-	191	3	749
Narragansett	2,137	184	1,827	194	4,342
Navajo	269,202	6,789	19,491	2,715	298,197
Nez Perce	3,983	300	1,965	287	6,535
Nipmuc	666	34	737	47	1,484
Nomlaki	360	171	98	23	652
Northwest Tribes	378	24	682	10	1,094
Omaha	4,239	289	687	83	5,298
Oneida Tribe of Wisconsin	704	13	192	11	920
Oregon Athabascan	234	31	116	7	388
Osage	7,658	1,354	5,491	1,394	15,897
Otoe-Missouria	1,470	336	505	133	2,444
Ottawa	6,432	623	3,174	448	10,677
Paiute	9,705	1,163	2,315	349	13,532
Pamunkey Indian Tribe	347	35	322	72	776
Passamaquoddy	2,398	63	995	67	3,523
Pawnee	2,485	487	1,246	322	4,540
Penobscot	2,045	50	1,557	149	3,801
Peoria	1,133	94	510	58	1,795
Pequot	1,283	147	1,190	177	2,797
Pima	8,519	999	1,741	234	11,493
Piscataway	932	16	452	43	1,443
Pit River	1,656	284	487	111	2,538
Big Valley Rancheria of Pomo and Pit River Indians	79	1	10	-	90
Pomo	5,111	776	1,720	267	7,874

Table 1. American Indian and Alaska Native Alone and Alone or in Combination Population by Tribe¹ for the United States, 2000 (*continued*)

American Indian and Alaska Native Tribes	American Indian and Alaska Native alone		American Indian and Alaska Native in combination with one or more races		American Indian and Alaska Native tribe alone or in any combination
	One tribe reported	Two or more tribes reported	One tribe reported	Two or more tribes reported	
	(1)	(2)	(3)	(4)	(5)
Ponca	3,355	437	927	139	4,858
Potawatomi	15,817	592	8,602	584	25,595
Powhatan	483	78	979	187	1,727
Pueblo	59,533	3,527	9,943	1,082	74,085
Puget Sound Salish	11,034	226	3,212	159	14,631
Quapaw	1,151	249	619	164	2,183
Quinault	2,377	100	574	105	3,156
Rappahannock Indian Tribe	269	6	109	10	394
Reno-Sparks	36	15	14	-	65
Round Valley	260	42	55	11	368
Sac and Fox	4,206	380	1,714	278	6,578
Salinan	366	35	253	27	681
Salish	3,310	210	1,101	118	4,739
Salish and Kootenai	3,464	39	687	13	4,203
Schaghticoke	256	4	229	9	498
Seminole	12,431	2,982	9,505	2,513	27,431
Serrano	263	89	65	12	429
Shasta	436	110	344	61	951
Shawnee	5,773	495	4,301	432	11,001
Shinnecock	1,239	87	1,299	133	2,758
Shoalwater Bay	129	1	30	3	163
Shoshone	7,739	714	3,039	534	12,026
Te-Moak Tribes of Western Shoshone Indians of Nevada	949	14	219	7	1,189
Paiute-Shoshone	3,112	57	349	21	3,539
Confederated Tribes of the Siletz Reservation	1,909	37	732	29	2,707
Sioux	108,272	4,794	35,179	5,115	153,360
Siuslaw	23	3	8	2	36
Spokane	2,198	26	418	11	2,653
Stockbridge-Munsee Community of Mohican Indians of Wisconsin	2,012	124	1,267	174	3,577
Tohono O'Odham	17,466	714	1,748	159	20,087
Tolowa	649	91	195	25	960
Tonkawa	241	27	58	7	333
Cher-Ae Indian Community of Trinidad Rancheria	6	2	9	-	17
Tygh	8	-	14	-	22
Umatilla	1,549	143	302	39	2,033
Umpqua	736	21	283	11	1,051
Ute	7,309	715	1,944	417	10,385
Wailaki	965	307	388	72	1,732
Walla-Walla	143	46	83	14	286
Wampanoag	2,336	70	2,050	138	4,594
Warm Springs	2,804	157	192	26	3,179
Wascopum	219	85	70	24	398
Washoe	1,186	423	310	55	1,974
Wichita	1,395	120	371	50	1,936
Wind River	12	-	-	1	13
Winnebago	7,409	322	1,814	155	9,700
Wintun	2,058	550	1,073	198	3,879
Grindstone Indian Rancheria of Wintun-Wailaki Indians	13	3	3	-	19
Wiyot	444	60	149	21	674
Yakama	8,481	561	1,619	190	10,851
Yakama Cowlitz	5	-	2	-	7
Yaqui	15,224	1,245	5,184	759	22,412

Table 1. American Indian and Alaska Native Alone and Alone or in Combination Population by Tribe¹ for the United States, 2000 (*continued*)

American Indian and Alaska Native Tribes	American Indian and Alaska Native alone		American Indian and Alaska Native in combination with one or more races		American Indian and Alaska Native tribe alone
	One tribe reported	Two or more tribes reported	One tribe reported	Two or more tribes reported	or in any combination
	(1)	(2)	(3)	(4)	(5)
Yavapai Apache	879	27	170	-	1,076
Yokuts	2,924	536	904	132	4,496
Yuchi	302	114	132	35	583
Yuman	7,295	526	1,051	104	8,976
Yurok	4,098	382	1,170	159	5,809
American Indian, Tribe Not Specified ³	103,174	89	80,163	85	183,511
Alaskan Athabaskan	14,520	815	3,218	285	18,838
Tlingit-Haida	14,825	1,059	6,047	434	22,365
Tsimshian	2,177	388	663	132	3,360
Sealaska	341	57	111	15	524
Southeast Alaska	26	6	66	-	98
Eskimo Tribes	5,658	1,686	2,112	364	9,820
Greenland Eskimo	3	-	4	-	7
Inuit	534	68	359	54	1,015
Inupiat Eskimo	16,047	845	2,282	191	19,365
Siberian Eskimo	1,381	9	37	3	1,430
Cupiks Eskimo	49	8	9	2	68
Yup'ik	21,212	895	1,996	134	24,237
Aleut	6,606	737	2,888	317	10,548
Alutiiq Aleut	319	11	51	8	389
Bristol Bay Aleut	610	5	69	-	684
Chugach Aleut	340	18	55	14	427
Eyak	379	21	144	8	552
Koniag Aleut	1,457	42	282	19	1,800
Sugpiaq	27	2	3	1	33
Suqpiq	1	1	-	-	2
Unangan Aleut	2,187	25	347	10	2,569
Alaska Native, Tribe Not Specified ²	5,957	364	1,908	113	8,342
Alaska Indian, Tribe Not Specified ²	203	8	145	5	361
American Indian or Alaska Native, Tribe Not Specified ³	511,960	-	544,497	-	1,056,457
Tribal Response, Not Elsewhere Classified ⁴	6,430	48	5,950	63	12,491

Footnotes:

- Represents zero or rounds to 0.0.

¹ The number and percent for Total American Indian and Alaska Native tribes tallied do not add to the total American Indian and Alaska Native population. This is because respondents may have reported more than one tribe. This is a tally of the number of tribe(s) reported rather than the number of American Indian and Alaska Native respondents reporting a tribe.

² Includes respondents who wrote in the generic term "American Indian" or "Alaska Native" or "Alaska Indian."

³ Includes respondents who checked the "American Indian or Alaska Native" response category on the census questionnaire, and did not include a specific American Indian or Alaska Native tribe.

⁴ Includes respondents who wrote in a tribe not specified in the American and Alaska Native Tribal Detailed Classification List for Census 2000.

Notes:

Total persons in Column 1 include people who reported only one American Indian or Alaska Native tribe or who checked the American Indian or Alaska Native response category, but did not write in a specified tribe. For example, a respondent who reported as Fort Sill Apache would be counted one time in the Fort Sill Apache data line, one time in the total Apache data line, one time in the Total persons data line, and one time in the Total tribes tallied data line.

Total persons in Column 2 include people who reported two or more American Indian or Alaska Native tribes. For example, a respondent who reported as both Fort Sill and Mescalero Apache would be counted one time in the Fort Sill Apache data line, once in the Mescalero Apache data line, but once in the Total Apache data line, one time in the Total persons data line, and twice in the Total tribes tallied data line.

Total persons in Column 3 include people who reported one American Indian or Alaska Native tribe, or who checked the American Indian or Alaska Native response category, but did not write in a specified tribe, and who reported at least one other race. These races include White, Black or African American, Asian, Native Hawaiian and Other Pacific Islander, and Some other race. For example, a respondent who reported as both "White and American Indian and Alaska Native," and wrote in Fort Sill Apache, would be counted once each in the Fort Sill Apache data line, in the Total Apache data line, in the Total persons data line, and in the Total tribes tallied data line.

Total persons in Column 4 include people who reported two or more American Indian or Alaska Native tribes and at least one or more other race(s). For example, a respondent who reported as both Fort Sill Apache and Mescalero Apache and as "White and Black or African American and American Indian or Alaska Native" would be counted in both the Fort Sill Apache and Mescalero Apache data lines once, counted in the Total Apache data line once, counted in the Total persons once, and counted twice in the Total tribes tallied data line.

Total persons in Column 5 include a tally of responses for people who reported one or more American Indian or Alaska Native tribe(s) and one or more races. For example, a respondent who reported as both Fort Sill Apache and Mescalero Apache and as "White and Black or African American and American Indian or Alaska Native" would be counted in both the Fort Sill and Mescalero data lines once, counted in the Total Apache data line once, counted in the Total persons data line once, and counted twice in the Total tribes tallied data line.

SOURCE: U.S. Census Bureau, Census 2000, special tabulation. For full details, see Table 66 at <http://www.census.gov/population/www/cen2000/briefs/phc-t18/index.html>. Internet release date: September 2002. Last Revised date: June 30, 2004

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